

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - - - -

Richard Horton,	:	
	:	
Plaintiff,	:	Case No. 2:23-cv-3888
vs.	:	
	:	Judge Algenon L. Marbley
City of Columbus,	:	
et al.,	:	Magistrate Judge
	:	Elizabeth Preston Deavers
Defendants.	:	

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VIDEOTAPED DEPOSITION OF RICHARD H. HORTON

- - - - -

Taken at Columbus City Attorney's Office
77 North Front Street, 4th Fl.
Columbus, OH 43215
December 19, 2024, 9:53 a.m.

- - - - -

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

Loevy & Loevy
311 North Aberdeen Street, Fl. 3
Chicago, IL 60607
By Alyssa Martinez, Esq.

ON BEHALF OF DEFENDANTS:

Columbus City Attorney's Office
77 North Front Street, 4th Fl.
Columbus, OH 43215
By Aaron D. Epstein, Esq.
David J. Dirisamer, Esq.
Alana Valle Tanoury, Esq.
Dexter W. Dorsey, Esq.

ALSO PRESENT:

Gregory Castetter - Videographer

Douglas Girard - Paralegal, Columbus City
Attorney's Office

Thursday Morning Session

December 19, 2024, 9:53 a.m.

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S T I P U L A T I O N S

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It is stipulated by counsel in attendance that the deposition of Richard H. Horton, the Plaintiff herein, called by the Defendants for cross-examination, may be taken at this time by the notary pursuant to notice and agreement of counsel; that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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1 THE VIDEOGRAPHER: The following
2 deposition of Richard Horton is being taken on
3 December 19, 2024, at 77 North Front Street,
4 4th floor, Columbus, Ohio, in the case of Richard
5 Horton versus City of Columbus, et al., in the
6 United States District Court, Southern District of
7 Ohio, Eastern Division, Case No. 2:23-cv-3888.

8 The court reporter is Carolyn Burke,
9 and the videographer is Gregory Castetter. This
10 deposition is being recorded by Spectrum Reporting
11 LLC. We are on the record at 9:53 a.m.

12 Will counsel please announce their
13 presence.

14 MS. MARTINEZ: Alyssa Martinez on
15 behalf of Plaintiff, Richard Horton. And we're
16 appearing here in person today.

17 MR. EPSTEIN: Aaron Epstein on behalf
18 of Brenda Walker and the City of Columbus, along
19 with Dexter Dorsey, Alana Tanoury, David
20 Dirisamer, and paralegal Douglas Girard, all in
21 person.

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RICHARD H. HORTON

being first duly sworn, testifies and says as follows:

CROSS-EXAMINATION

BY MR. EPSTEIN:

Q. Good morning, Mr. Horton. My name is Aaron Epstein, and as you heard, I'm here on behalf of the Defendants, Brenda Walker and the City of Columbus, for your deposition. I'm going to be asking you questions today. Have you had your deposition taken before?

A. No, I have not.

Q. And a deposition is different from testifying in court. I know you've testified in court, but in a conference room setting like this, you've never done this before?

A. No, I have not.

Q. Okay. I'm going to start by laying out some ground rules that are going to help this go more smoothly.

As you can see, we have a court reporter taking everything down, and it becomes very difficult for her if you and I speak at the

1 same time. So I'm going to ask, to the best of
2 your ability, even if you know where my question
3 is going, try to wait until I finish before you
4 begin giving your answer. Okay?

5 A. Okay.

6 Q. And I will try to extend the same
7 courtesy to you. I will let you finish your
8 answers before I begin to ask another question.

9 Another thing, it's very common in
10 conversation for us to communicate with head nods
11 or uh-huh. Those are difficult to take down and
12 reflect in the transcript, so I would ask you to
13 try to remember to answer yes or no. And if you
14 forget to do that, I may remind you. Is that
15 okay?

16 A. Yes, that seems okay.

17 Q. Okay. If I ask you a question that you
18 do not understand, please indicate that, ask me to
19 rephrase it, I will be happy to do that. Okay?

20 A. Okay. For instance, like, "Could you
21 please rephrase"?

22 Q. You can say, "Will you please
23 rephrase," or it's sufficient if you just say,
24 "I'm sorry, I don't understand." Just anything to

1 communicate that you're not clear. And here's the
2 reason why. If I ask you a question and you
3 answer it and you don't indicate that you didn't
4 understand, I'm going to assume that you did.

5 A. Uh-huh.

6 Q. And I'm going to rely on your answer.
7 Would that be fair?

8 A. I think I understand.

9 Q. Okay. Great.

10 We'll be here for a while today, so we
11 will take breaks at times. If you need to take a
12 break, just please let me know. We'll be happy to
13 accommodate that. The only thing I ask is if I
14 have asked you a question, you answer the question
15 before we take the break. Okay?

16 A. I think I understand.

17 Q. All right. Is there any reason why you
18 would be unable to testify truthfully today?

19 A. No, there would be no reason.

20 Q. Are you on any medications that would
21 impair your ability to recall or understand?

22 A. That's a good question. No, I
23 don't -- I don't think that the medications that I
24 take will impair my -- my memory, no.

1 Q. Do you have any mental illnesses that
2 would affect your ability to understand and answer
3 my questions?

4 A. No, not at this time, I don't. I don't
5 think so, no. Just -- no, I don't think so. I
6 think I'll be able to answer your questions
7 sufficiently.

8 Q. You said not at this time. Have you
9 had mental illnesses in the past?

10 A. I haven't been properly diagnosed, so I
11 wouldn't be able to answer that question.

12 Q. Okay. That's fair. Have you had
13 hallucinations, audio or visual hallucinations in
14 the past?

15 A. Not that I can recall, no.

16 Q. I think I neglected to ask you this.
17 Could you state your full legal name, please?

18 A. Yes. My name is Richard H. Horton.

19 Q. And your current address?

20 A. My current address is 1073 Urana
21 Avenue, Columbus, Ohio.

22 Q. Do other people live at that address
23 with you?

24 A. Yes.

1 Q. Who?

2 A. My wife currently lives with me on
3 1073. Her name is Janette Horton.

4 Q. And can you spell Janette's first name,
5 please?

6 A. J-a-n-e-t-t-e.

7 Q. Is it correct to say that you do not
8 have any children currently living in that
9 household with you?

10 A. Yes, that would be correct.

11 Q. What's your current telephone number?

12 A. My current cell phone number is
13 614-619-9344.

14 Q. Other than talking to your attorneys,
15 what did you do to prepare for this deposition
16 today?

17 A. Just try to get a good night's sleep,
18 good breakfast.

19 Q. Did you review any materials before you
20 came here today?

21 A. Did I review any materials? That's a
22 good question. Yes.

23 Q. What were those?

24 A. So I -- I'm the type of person that

1 usually when I'm talking with my attorney, I take
2 notes. So I definitely reviewed my notes.

3 Q. We've taken some depositions of
4 witnesses in this case. Have you read any of the
5 transcripts of those depositions?

6 A. No.

7 Q. You have not read Brenda Walker's
8 deposition testimony?

9 A. No, I don't -- I don't -- no, I
10 haven't.

11 Q. And we've also deposed Rhonda Curry
12 and -- have you read Rhonda Curry's deposition
13 testimony?

14 A. No, I have not read Rhonda Curry's
15 deposition.

16 Q. And we've deposed Kawanna Harris. Have
17 you read her deposition?

18 A. No, I have not.

19 Q. Other than your attorneys, who have you
20 talked to about this lawsuit?

21 A. I do not recall. This has been a long,
22 hard process. I don't -- I try to be pretty
23 private. I don't know. I don't recall.

24 Q. Have you spoken with Kawanna Harris

1 about this lawsuit?

2 A. Absolutely not.

3 Q. Why do you say absolutely not?

4 A. It doesn't seem like something I would
5 be -- that would be professional to discuss a
6 pending litigation with an ex-girlfriend.

7 Q. Are you in communication with Kawanna
8 Harris?

9 A. I am not.

10 Q. When was the last time you talked to
11 her?

12 A. I do not recall. It's been that long.

13 Q. Help me out with a pronunciation.
14 There's been a person identified in connection
15 with this case and the name is either LaKeon or
16 LaKeon. Who is that?

17 A. The correct way to pronounce LaKeon's
18 name is La-key-an. LaKeon is -- he is my first
19 cousin.

20 Q. His last name is Horton, too, as well;
21 is that correct?

22 A. Yes, that's correct.

23 Q. Have you spoken to him about this
24 lawsuit?

1 A. I don't recall.

2 Q. When was the last time you talked to
3 LaKeon?

4 A. The last time I spoke with LaKeon,
5 maybe -- maybe -- I actually had a conversation
6 with LaKeon maybe -- it's been -- it's been a
7 while. Maybe a month or two ago.

8 Q. What did you talk about?

9 A. I believe he was planning to move to
10 Cleveland.

11 Q. Did he move to Cleveland?

12 A. I'm not sure.

13 Q. Would you be able to get in touch with
14 him if you needed to?

15 A. Yes, I think that I would be able to
16 get in contact with him if I needed to.

17 Q. Do you have a cell phone number for
18 him?

19 A. Yes, I do.

20 Q. Do you know an individual named Dwight
21 Dorsey?

22 A. Yes, I do know Dwight Dorsey.

23 Q. Who is Dwight Dorsey?

24 A. Dwight Dorsey is my former supervisor

1 at my current place of employment.

2 Q. And where is that?

3 A. I work for a company named
4 DeBra-Kuempel.

5 Q. Can you spell that?

6 A. It's D-e-B-r-a-K-u-e-m-p-e-l.

7 Q. What do you do there?

8 A. I am a delivery driver/laborer.

9 Q. All right. We'll come back to that,
10 but in the meantime let's go back to Mr. Dorsey.
11 Have you spoken to him about this lawsuit?

12 A. I have not spoken to Dwight Dorsey
13 about this lawsuit.

14 Q. Did you have to take time off from work
15 today to be here?

16 A. Yes, I did have to take time off.

17 Q. Did you have to give an explanation for
18 why you were taking the time?

19 A. No. I told him it was personal
20 reasons.

21 Q. And, finally, how many children do you
22 have?

23 A. I have two children.

24 Q. And what are their names?

1 A. I have a son and a daughter. My
2 daughter's name is Vantasia Williams, and my son's
3 name is Kobe Horton, H-o-r-t-o-n.

4 Q. Can you spell Vantasia's first name,
5 please?

6 A. V-a-n-t-a-s-i-a.

7 Q. And how old are they?

8 A. My son is 23. And my daughter is
9 25 years of age.

10 Q. Have you talked to them about this
11 lawsuit?

12 A. I do not recall.

13 Q. You are the Plaintiff in this lawsuit,
14 correct? Do you understand what I mean when I say
15 the word "Plaintiff"?

16 A. No. Could you explain it to me?

17 Q. Absolutely. You understand that you're
18 here because there's a lawsuit, correct?

19 A. I do understand that.

20 Q. And you understand that you are the
21 person who brought the lawsuit, you are the person
22 suing; is that correct?

23 A. I do understand that.

24 Q. All right. That makes you the

1 Plaintiff. That's the term for that. Okay.

2 - - - - -

3 Thereupon, Exhibit 1 is marked for
4 purposes of identification.

5 - - - - -

6 Q. I'm handing you a document that I have
7 marked as Exhibit 1. And I will represent to you
8 that --

9 MS. MARTINEZ: Thank you.

10 Q. -- this is the First Amended Complaint
11 that was filed in this lawsuit. You can take a
12 minute to look it over if you need to.

13 MS. MARTINEZ: Just for this one,
14 Counsel, if you ask him specific questions, will
15 you direct him to the part and just won't have him
16 review the whole --

17 MR. EPSTEIN: I absolutely will.

18 MS. MARTINEZ: -- thing. Okay.

19 Q. My only question at this point is going
20 to be, have you seen this document before? Have
21 you seen this document before, Mr. Horton?

22 A. No, this document does not look
23 familiar.

24 Q. Have you seen any document similar to

1 that that you can recall?

2 A. I can't recall.

3 Q. Now, you understand that the source of
4 this entire lawsuit comes from a home invasion
5 robbery that occurred in October of 2004? Do you
6 understand that?

7 A. Yes, I understand that.

8 Q. All right. And you were tried as the
9 Defendant for committing that crime, correct?

10 A. Yes, I was tried in 2004.

11 Q. And you testified at that trial in your
12 own defense, correct?

13 A. I testified in -- yes, because I didn't
14 commit the crime, so, yeah.

15 Q. My question is, did you testify at that
16 trial?

17 A. Yes, I testified at that trial because
18 I did not commit the crime.

19 Q. Did you testify truthfully?

20 A. I did testify truthfully at that trial.

21 Q. And you were under oath when you gave
22 that testimony, correct?

23 A. Yes, I remember just like in any other
24 proceeding they swore me in, so, yes --

1 Q. Sure, yes.

2 A. -- I was under oath.

3 Q. Just like she swore you in this morning
4 the same way, correct?

5 A. Yes.

6 Q. Okay. Since your trial, have you
7 looked at your trial testimony?

8 A. Since my trial? My trial was over
9 20 years ago, so that was a very long time, so
10 throughout that time period of between 2004 and
11 2024, have I looked at the trial transcripts?

12 Yes, I have.

13 MR. EPSTEIN: Bear with me one minute.

14 THE VIDEOGRAPHER: Mic, mic, mic. Mic,
15 mic, mic.

16 MR. EPSTEIN: Whoop. I do that every
17 single time, every deposition.

18 - - - - -

19 Thereupon, Exhibit 2 is marked for
20 purposes of identification.

21 - - - - -

22 Q. All right. I am handing you what's
23 been marked as Exhibit 2, and I will represent to
24 you that this is the transcript of the

1 testimony --

2 MS. MARTINEZ: Thank you.

3 Q. -- from the trial. I'm not going to
4 ask you to turn to it just yet, but if you're
5 interested, your testimony will begin on page 175.

6 My question now is, in the 20-some
7 years or however long since you gave the
8 testimony, and as you've looked at it over the
9 years or thought about it, were there any answers
10 that you gave that you would change?

11 A. That's a very good question. Seeing
12 that I was wrongly convicted and sentenced to
13 serve 23 years for a crime that I didn't commit,
14 and looking over the trial transcripts from
15 20 years ago, I believe that there's nothing in
16 there that I would change. I was completely
17 truthful and I continue to stand by everything
18 that I said.

19 Q. Was there any testimony that you gave
20 that was inaccurate?

21 A. I do not recall.

22 Q. Is it possible?

23 A. I -- I do not recall.

24 Q. The robbery occurred in October of

1 2004; is that your understanding?

2 A. Is that my understanding? I'm not sure
3 when the actual robbery occurred because I wasn't
4 there.

5 Q. Well, I understand that, but you were
6 charged with the crime, so presumably they told
7 you what crime you were accused of, correct?

8 A. They -- they did tell me what
9 time -- crime I was accused of, that is correct.

10 Q. And did they tell you when the crime
11 occurred?

12 A. They said it was October 9th, 2004.

13 Q. And on October 9th, 2024, you were
14 living at 780 Reynolds Avenue in Columbus; is that
15 correct?

16 A. No. That is not correct.

17 Q. That's not correct?

18 A. No.

19 Q. Where were you living on October 9th?

20 A. I was living on -- well, first of all,
21 it was 20 years ago, so my memory is not crystal
22 clear, but in -- in 2004, I was paroled to a
23 Camden Avenue address. I sometimes stayed at the
24 Reynolds Avenue address and I sometimes stayed at

1 the Grove City address that I talked about. I
2 believe I talked about it somewhere throughout
3 these transcripts.

4 Q. And -- and we'll talk about those. The
5 Camden Avenue address, that was your aunt's house;
6 is that correct?

7 A. Yes, that's correct.

8 Q. And the Sonora Drive, that's where
9 Janette was living, correct?

10 A. Man, that was a really long time ago,
11 but I believe that is correct.

12 Q. Okay. But in October 2004, you were
13 not living with Janette at Sonora Avenue yet,
14 correct?

15 A. I do not recall.

16 Q. Okay. Let me direct your attention to
17 page 192 of the transcript.

18 A. Give me one second.

19 Q. Are you there?

20 A. I am.

21 Q. Okay. Let me read for you. Starting
22 on line 5.

23 "QUESTION: During this time of
24 October 8th, October 9th, where were you living?

1 "ANSWER: I was living at 780 Reynolds
2 Avenue.

3 "QUESTION: And where was Janette
4 living?

5 "ANSWER: 2279 Sonora Drive, Grove
6 City, Columbus, Ohio."

7 Do you see that?

8 A. I do see that.

9 Q. Does that refresh your recollection of
10 where you were living on October 9th?

11 A. No, it does not.

12 Q. All right. But you testified that you
13 were truthful at your trial, correct?

14 A. Yes, that's correct.

15 Q. And at your trial you testified that on
16 October 9th you were living at Reynolds Avenue,
17 correct?

18 A. I testified -- this is -- this is just
19 one part. I assume on somewhere in this paperwork
20 it's also written down where I said that I was
21 living with Janette and that I was staying -- I
22 was paroled to the Camden Avenue, so I kind of
23 moved around a little bit.

24 Q. I understand. But you were asked the

1 question here and this was the answer you gave,
2 correct?

3 A. I've already answered that question.

4 Q. What's your understanding of what the
5 crime was?

6 A. My understanding? My understanding of
7 what the crime was, was that someone broke into
8 these people's house, shot one of the victims in
9 the leg, and made off with \$40, which is -- it was
10 just unthinkable. It was a tragedy.

11 Q. There were two -- I'm sorry.

12 A. It was a tragedy.

13 Q. The victims of the crime were Richard
14 McClanahan and Rhonda Curry, correct?

15 A. I believe so.

16 Q. Prior to that robbery, did you know
17 Richard McClanahan?

18 A. I believe that -- I believe it says,
19 yes, I -- I did know Richard McClanahan. The
20 neighborhood that we -- we -- we lived in is a
21 rather small neighborhood, so, yeah, I knew who he
22 was. I know who he was. I can say that with
23 confidence.

24 Q. When you say the neighborhood, does

1 that neighborhood have a name?

2 A. Yes, it does. I believe it's called
3 the Milo-Grogan area.

4 Q. And how long had you lived in that
5 area?

6 A. Oh, that was -- that was a really long
7 time ago. I believe I moved to the Milo --
8 Milo-Grogan area around 1989.

9 Q. So during that time period between 1989
10 and 2004, you knew Mr. McClanahan, correct?

11 MS. MARTINEZ: Object to the form.

12 Q. Let me ask it this way: During that
13 time period, did you know who Mr. McClanahan was?

14 A. I'm not sure how to answer the
15 question. I thought I already answered that
16 question.

17 Q. Okay. Well, what I want to get to is,
18 you saw him around the neighborhood, correct?

19 A. Yes, I've seen him, yes.

20 Q. Multiple times?

21 A. Yes.

22 Q. And you would recognize him when you
23 saw him; is that correct?

24 A. Yes. Yes, I would recognize

1 Mr. McClanahan.

2 Q. Did you know him by name?

3 A. I believe they used to call him Rick.

4 Q. So that's how you knew him as that guy
5 is Rick?

6 A. Yes. Mr. McClanahan was -- may -- may
7 his soul rest in peace, he was a rather tall
8 gentleman. He was very distinctive, yeah. Rick.

9 Q. Did you know his last name at the time?

10 A. I do not recall.

11 Q. Did you know what he did for a living?

12 A. No, I don't recall.

13 Q. Did you know where he lived?

14 A. No. I don't -- I don't recall.

15 Q. Do you know Tracy McClanahan?

16 A. That name -- do I know Tracy
17 McClanahan? That name sounds familiar, but I
18 couldn't tell you. I couldn't describe her to
19 you, what she looks like. As I said, I was in
20 prison for 16 years. And I -- I couldn't pick her
21 out in a crowd of people.

22 Q. Can you tell me how you know her?

23 A. No. No, I do not recall how I know
24 her. I'm actually drawing a blank.

1 Q. At your trial you testified that you
2 bought a car from Tracy McClanahan. Do you
3 remember that?

4 A. I'm not sure at this point. The trial
5 was so long ago. I'm not exactly who -- I'm not
6 exactly sure who I bought the car off of.

7 Q. Do you know the car I'm referring to?

8 A. Yes.

9 Q. What car?

10 A. It was a -- it was a -- a Cutlass. I
11 remember it distinctly because I remember the
12 color of it. It was kind of like a -- like a
13 champagne-colored Cutlass. It wasn't -- it wasn't
14 a great car. It wasn't too fancy of a car, but it
15 was -- I distinctly remember the color of the car.

16 Q. When did you buy it?

17 A. What year did I buy it?

18 Q. Yes.

19 A. Oh, I -- I -- just -- my memory is not
20 as sharp as it -- as it once was. Just, you know,
21 from being in prison for over 16 years for a crime
22 I didn't commit, my -- the PTSD, it kind of
23 affects my memory, so it -- I -- I do not recall
24 exactly what year it was when I bought a car.

1 That was -- that was over 20 years ago.

2 Q. Fair enough. Have you been diagnosed
3 with PTSD?

4 A. By a professional?

5 Q. Yes.

6 A. No, I have not, but I've done a little
7 research and I believe that I exude some of the
8 same symptoms as -- some of the same symptoms as
9 other individuals with this ailment.

10 Q. Okay. We'll come back to that, but I
11 don't want to get off track. You testified at the
12 trial that you bought the car from Tracy
13 McClanahan. And your testimony today is you don't
14 remember that?

15 A. I do not recall.

16 Q. Did Rick McClanahan have any
17 involvement in that sale or transaction?

18 A. Like I said, I -- I do not remember
19 exactly who I bought the car from, but I remember
20 one of the stipulations was that he was going to
21 do some work on the car to actually get it -- I
22 can't remember exactly what he was doing to it.
23 It was -- it was over 20 years ago. But he was
24 supposed to do some work on the car, like fix

1 something.

2 Q. Rick McClanahan was going to do some
3 work on it?

4 A. Yes, sir.

5 Q. Did you take the car to Mr. McClanahan?

6 A. I -- I can't -- I can't remember that.
7 That's -- that's -- that was a long time ago.
8 Sorry.

9 Q. Did Mr. McClanahan do the work?

10 A. I believe he did, but I'm not
11 100 percent sure. That was a long time ago.

12 Q. I can't remember if I asked you this.
13 Did you know where Mr. McClanahan lived?

14 A. I'm -- I'm not sure if I can remember.
15 I don't recall.

16 Q. Did you ever go to Mr. McClanahan's
17 house?

18 A. I don't recall.

19 Q. Was Mr. McClanahan married?

20 MS. MARTINEZ: Objection. Foundation.
21 You can answer.

22 A. Let me think for a second. I knew
23 Mr. McClanahan, but I did not know his -- I didn't
24 know a lot about his -- his personal life, so I

1 don't recall if he was married or not.

2 Q. Did you -- back in this period that
3 we're talking about, in the early '90s before the
4 robbery, did you know Rhonda Curry on sight?

5 A. Back -- back then I do remember
6 Ms. Curry, yeah. They were kind of like two peas
7 in a pod.

8 Q. What do you mean by that?

9 A. Usually when you would -- when you
10 would see one, you would see the other.
11 They're -- I believe, I'm not 100 percent sure,
12 but I believe she was a taller lady also.

13 Q. Did you know her name?

14 A. I do not recall if I knew her name, if
15 I knew her on a first name basis. That's a good
16 question. I'm not sure about that.

17 Q. But you would be able to recognize her
18 if you saw her on the street back then?

19 A. Yes.

20 Q. And you did often see her on the
21 street?

22 MS. MARTINEZ: Objection. Form.

23 A. I'm not sure if I was -- I'm not -- I'm
24 not -- I'm not sure about often. I've seen her.

1 I do not recall.

2 Q. But back during that time period you
3 saw her often enough that you knew her and
4 recognized her when you saw her; is that correct?

5 A. I would say -- I would answer that
6 question that I -- I would be able to recognize
7 her back then. She was a taller lady. Kind of
8 stood out.

9 Q. Did you ever see Rick McClanahan buy
10 drugs?

11 A. I do not recall.

12 Q. Did you ever sell Rick McClanahan
13 drugs?

14 A. That was so long ago, I honestly don't
15 recall.

16 Q. You did sell drugs back in that time
17 period, correct?

18 MS. MARTINEZ: Objection. Form.

19 A. Back in those days, I was young and
20 dumb and really just trying to figure out my way.

21 Q. Okay. My question was --

22 A. I didn't --

23 Q. -- were you selling drugs?

24 A. I didn't really have any positive role

1 models in my life at that time and I made some
2 mistakes, so I -- I did what I -- what I thought
3 was the cool thing to do, and I...

4 Q. Is that a yes, you were selling drugs?

5 A. I -- yeah, I made some mistakes. Yeah,
6 that's a yes.

7 Q. When did you start using drugs?

8 MS. MARTINEZ: Objection. Form.

9 You can answer.

10 A. I've never really been a -- I would
11 never really describe myself as a drug user, so I
12 do not recall.

13 Q. Well, let's start simple. When you
14 were in high school or junior high, did you drink
15 alcohol?

16 A. When I was -- yes.

17 Q. How often?

18 A. Not very often. I was a -- I went to
19 high school in the '90s. I graduated in 1995. I
20 was an athlete. I took pride in what I put in my
21 body and -- yeah. So I would say not often.

22 Q. When you were in junior high and high
23 school, did you smoke marijuana?

24 A. Like I said, back in the -- in the

1 '90s, I would have -- yes, I would have definitely
2 experimented with marijuana in the '90s.

3 Q. How often did you smoke marijuana when
4 you were in junior or high school?

5 A. I would say not often. But it was a
6 long time ago. It's kind of hard for me to
7 remember --

8 Q. Weekly?

9 A. -- every single incident.

10 Q. Weekly?

11 A. Probably not.

12 Q. Monthly?

13 A. I'm not 100 percent sure.

14 Q. When you were in high school or junior
15 high, did you use cocaine?

16 A. When I was in high -- absolutely not.

17 Q. Have you ever used cocaine?

18 A. Have I ever used cocaine? Yes.

19 Q. When did you start using cocaine?

20 A. I never actually started. I kind of
21 experimented maybe sometime in the '90s. It was
22 wild times.

23 Q. What do you mean experimented?

24 A. Like, experimented back in the '90s, I

1 would just kind of see -- see -- you know, it was
2 a popular drug in the '90s, just kind of see if I
3 liked it, and I don't recall liking it.

4 Q. So is it your testimony that you tried
5 it only once or twice, or is it your testimony you
6 tried it more than that?

7 A. I don't recall.

8 Q. Before we follow that up, I need to ask
9 you, where did you go to high school?

10 A. I went to high school on Bethel Road.
11 It's the -- the school is called Centennial High
12 School.

13 Q. And when did you graduate?

14 A. I graduated in the year 1995.

15 Q. And while you were in high school, did
16 you have any nicknames?

17 A. That was a really long time ago. I did
18 have some -- a few different nicknames.

19 Q. What were they?

20 A. Back in high school I was a pretty
21 athletic young man, and I could -- I could jump
22 pretty high. I can't jump high at all now. They
23 used to call me the UPS man, because I could jump
24 pretty high. That was before we really -- so,

1 just -- I remember -- I remember that nickname.

2 Q. What about Richey Rich?

3 A. Well, my first name is Richard, so
4 that's kind of been one of my nicknames my whole
5 life, whether I liked it or not, whether I was
6 rich or poor.

7 Q. Did you have any other nicknames at any
8 time?

9 A. I'm sure I did, but it, you know -- can
10 I remember all of the nicknames from my whole,
11 like, childhood into adulthood? At this point, I
12 cannot.

13 Q. Was Adidas boy one of your nicknames?

14 A. No, I would never -- just being a black
15 man, I would never let nobody call me -- I would
16 never accept anybody calling me boy.

17 Q. What about Adidas man?

18 A. Maybe. Maybe.

19 Q. Do you recall anybody calling you the
20 nickname Adidas man?

21 A. Yeah.

22 Q. So that was your nickname?

23 A. No. I -- it might -- it might have
24 been one of the nicknames. I had a lot of

1 different nicknames. I was a pretty popular guy.
2 Good with the ladies. Easy on the eyes. So I
3 can't say, you know, exactly what each person and
4 each different clique or circle called me, but I
5 definitely remember that name.

6 Q. You do remember that name?

7 A. Yeah.

8 Q. And you do remember that people
9 referred to you that way?

10 A. Some people, I do remember. Some
11 people.

12 Q. Can you tell me who?

13 A. No, I cannot. I'm sorry. I do not
14 recall who gave me a nickname in the '90s.

15 Q. Was this nickname while you were still
16 in high school or after you graduated or both?

17 A. I would venture to say that I'm not
18 100 percent sure, but I would assume it was around
19 high school, not after high school.

20 Q. You were a basketball player in high
21 school, right?

22 A. Yes, I was.

23 Q. And I've always assumed that the Adidas
24 man nickname had something to do with you playing

1 basketball. Is that a correct assumption?

2 A. I'm not sure who -- who actually came
3 up, how it fit, but Adidas is a clothing brand, so
4 I'm -- I don't think it was -- had a lot to do
5 with sports. I think it had more to do with the
6 clothing.

7 Q. That's fair. I think of it more in
8 connection with the shoes. Did you wear Adidas
9 apparel?

10 A. In high school?

11 Q. Yes.

12 A. I'm -- yes, I'm pretty sure I did.

13 Q. I mean, was that sort of your look or
14 your image?

15 A. The brand Adidas is a pretty affordable
16 brand and I grew up kind of poor, so I -- I had a
17 few pieces. I assume that I had a few pieces, but
18 it wasn't like my whole wardrobe.

19 Q. But is it fair to say you had enough
20 that people might associate you with Adidas
21 apparel?

22 MS. MARTINEZ: Objection. Form.

23 You can answer.

24 A. Yeah, I think that's a fair assessment.

1 Q. During the course of this litigation,
2 you've had to fill out some paperwork that your
3 lawyers have given you, correct?

4 A. That's correct.

5 Q. Do you remember that we sent questions
6 asking for information, your lawyers would give
7 that to you, and you would provide responses to
8 that? Do you remember going through that
9 exercise?

10 MS. MARTINEZ: Objection. Form.

11 A. This process has been long and drawn
12 out and at times difficult. And I know I -- yes,
13 I filed out some paperwork.

14 - - - - -

15 Thereupon, Exhibit 3 is marked for
16 purposes of identification.

17 - - - - -

18 Q. I'm handing you what I've marked as
19 Deposition Exhibit 3.

20 A. Thank you.

21 Q. You will see that it is captioned
22 Plaintiff's Responses to Defendants' First Set of
23 Discovery Requests. Do you recognize this
24 document?

1 A. I'm sorry. I don't recognize this
2 document.

3 Q. That's okay. Do you see that they
4 are -- that the document is asking for information
5 and there are answers being provided?

6 A. No, I don't see that. What page is --

7 Q. Okay. Let --

8 A. -- is that part --

9 Q. Let me --

10 A. -- of it asking?

11 Q. Let me give you an example. So, for
12 example, turn to page 10.

13 A. Okay.

14 Q. All right. And do you see a bold
15 heading that says Interrogatory 8?

16 A. Yes, I do.

17 Q. Okay. I will represent to you,
18 "interrogatory" is just the legal term for
19 question.

20 A. Oh, okay.

21 Q. So this is Question No. 8.

22 A. Okay.

23 Q. And it says: Identify the addresses of
24 your residences during the time period of 1990 to

1 October 9th of 2004.

2 Okay? Do you see that?

3 A. I see it.

4 Q. All right. So this is us presenting a
5 question to you. And then there's -- then in the
6 first paragraph there's some legal information.
7 And then in the second paragraph there is an
8 answer: Without waiving objection, Plaintiff
9 responds that in 2004, he lived at 780 Reynolds
10 Avenue, Columbus, Ohio 43201, and 893 Camden
11 Avenue, Columbus, Ohio 43201. And then it goes on
12 with some additional information.

13 Do you see that?

14 A. I do see that.

15 Q. Okay. So this document is asking
16 questions and providing answers, right?

17 A. Yes.

18 Q. Okay. Did you provide the information
19 to your lawyers to answer these questions?

20 MS. MARTINEZ: You can answer that
21 question.

22 A. I'm not sure if I understand the
23 question.

24 Q. Were you ever shown these questions and

1 asked to answer them?

2 A. Yes.

3 Q. And did you give truthful answers?

4 A. Yes.

5 Q. All right. Can you turn to page 4?

6 Now, the section on page 4, we're not in the
7 interrogatories anymore, these are called
8 admissions. They're essentially yes or no
9 questions. And if you'll turn to No. 6, the
10 question is: Admit that your nickname has been
11 Adidas boy at some point in your life.

12 And the answer was you denied
13 Plaintiff's nickname was ever Adidas boy.

14 Do you see that?

15 A. I see it.

16 Q. Is that a correct answer?

17 A. Yes, I believe that's a correct answer.

18 Q. And is your objection to that being
19 your nickname the fact that it says Adidas boy?

20 MS. MARTINEZ: Objection. Form.

21 You can answer.

22 A. Yes.

23 Q. So if -- if the question was admit that
24 your nickname has been Adidas man, would you

1 answer yes?

2 A. You -- are you asking me -- could
3 you -- could you state the question one more time?
4 I'm sorry.

5 Q. Yeah. Sure. I'm saying if instead of
6 asking whether your nickname had ever been Adidas
7 boy, whether your nickname had ever been Adidas
8 man, would you have said yes, that has been my
9 nickname at some point?

10 A. Yes.

11 Q. Have you ever known anyone else to have
12 the nickname Adidas boy?

13 A. I do not recall at this time. That
14 was -- are you -- are you saying throughout my
15 whole life or are you saying during high school?
16 Because I'm -- I'm not sure how to answer that
17 question. That's a really open-ended question.
18 Could you be --

19 Q. That's fair. And --

20 A. Could you be more specific?

21 Q. Well, it is an open-ended question. My
22 question is, have you ever known anyone with the
23 nickname Adidas boy?

24 A. I do not recall.

1 Q. And specifically in high school, did
2 you ever know anyone with the nickname Adidas boy?

3 A. I'm so sorry, man. I don't recall.
4 That was -- that was a long time ago.

5 Q. Okay. All right. I want to double
6 back now to a topic we started on and didn't go
7 into much depth and that is selling drugs. You
8 were selling drugs at one point in time, correct?

9 A. I made some mistakes in my life.

10 Q. Is that --

11 A. Yes.

12 Q. -- a yes? Is that a yes?

13 A. Yes.

14 Q. What drugs were you selling?

15 A. Let me make sure I answer this question
16 truthfully. I've sold marijuana, which is legal
17 now. I've sold crack cocaine.

18 Q. Did you sell powdered cocaine?

19 A. I do not recall.

20 Q. And just to be clear, marijuana was not
21 legal at the time you were selling it, correct?

22 MS. MARTINEZ: Objection. Foundation.

23 A. Well, all this stuff happened, you
24 know, at earlier stages in my life when I was

1 young and dumb and making a lot of mistakes, so
2 this had to be before the year 2004, and I -- I do
3 not -- no, it was not legal before the year 2004.

4 Q. When did you start selling drugs?

5 A. It was -- it was around the time
6 period my mother passed away in the year 19 --
7 2 -- in the year 19 -- I do not recall. It was
8 around the time when my mother passed away. I was
9 trying to provide for my family. Like, I didn't
10 have a father growing up, so I was trying to
11 provide for the family the only way I knew how. I
12 didn't have a lot of role models in my life to
13 say, you know, to suggest, you know, go to school,
14 learn a trade. And just being in the neighborhood
15 that I lived from, it just seemed like selling
16 drugs was the only route to go.

17 Q. What did your mother die of?

18 A. My mother, she passed away from heart
19 disease.

20 Q. Was -- was she ill for a long period of
21 time or was it sudden?

22 A. She -- she was ill for a while.

23 Q. What did she do for a living before she
24 died?

1 A. She was -- she was -- she worked at a
2 packaging plant. Yeah.

3 Q. And how old were you when she died?

4 A. I was -- I believe I was 20 years old.
5 Just it was so long ago and just going through all
6 the trauma of being locked up in prison for
7 16 years for a crime I didn't commit, it's -- it's
8 almost embarrassing, but I just -- I don't know
9 the exact date and year.

10 Q. But is it fair to say that you
11 were -- you had already graduated from high school
12 before she died?

13 A. Yes.

14 Q. What did you do when you graduated high
15 school for employment?

16 A. You know what, that was -- that was a
17 real long time ago. My first job out of high
18 school, at this time I don't recall. I don't
19 recall. A job I had in 1995? I'm not sure if I
20 remember.

21 Q. Well, let's -- let's try this. In
22 roughly 2001, you were incarcerated in West
23 Virginia, correct?

24 A. That's correct.

1 Q. Okay. Between the time you graduated
2 high school and the time that you were
3 incarcerated in West Virginia, can you recall any
4 employment that you had?

5 A. Between -- yes, I can recall.

6 Q. What can you tell me?

7 A. I -- I worked as a roofer. I worked
8 fast food. I worked in the service industry. I
9 had -- I had -- I had a couple of different jobs
10 between -- between 1995 and 2001. A couple
11 different jobs, ventures.

12 Q. Tell me about the roofing job. Who did
13 you work for?

14 A. I worked for a company named Urban
15 Roofing. It was -- it was -- it was a nice job.
16 Decent money. A little hard on the knees. But I
17 can remember just -- just -- just having that
18 feeling of being part of a crew and, you know, at
19 the end of the day having a certain sense of
20 accomplishment, you know, putting a new -- taking
21 a roof off the house and putting a new roof on the
22 house. And, you know, a couple of satisfied
23 customers along the way because we weren't
24 the burst -- we weren't the best roofing crew in

1 Columbus, Ohio, but we did pretty good work. I
2 like to think that we made a difference.

3 Q. Why was it hard on your knees?

4 A. Just, you know, doing -- replacing the
5 roof and putting on the new shingles, you do a lot
6 of bending over and squatting. And, you know,
7 taking stuff up and down the ladder can be -- can
8 be difficult on the body, especially the knees.

9 I had a leaking -- I had a leak in my
10 roof a couple of weeks ago, and, you know, now
11 that I'm 48 years of age, I wouldn't dare get on
12 that roof.

13 Q. How long did you do that -- strike
14 that.

15 How long did you do that job for Urban
16 Roofing?

17 A. I -- I -- I do not recall at this time.
18 It was -- it was a couple of years.

19 Q. Why did you leave that job?

20 A. The company moved to Florida.
21 They -- I believe that's why. And I didn't want
22 to move to Florida.

23 Q. Did you do any other kind of home
24 renovation, home repair work, during that time?

1 A. I don't -- I don't recall.

2 Q. Were you selling drugs at the same time
3 that you were working for Urban Roofing?

4 A. No. It was a -- it was a pretty
5 labor-intensive job.

6 Q. So it is your testimony that you
7 started selling drugs after you lost the Urban
8 Roofing job?

9 A. I do not recall.

10 Q. And is it your testimony that you
11 stopped selling -- excuse me.

12 Is it your testimony that you started
13 selling drugs after your mother died?

14 A. That's a good question. I -- I'm not
15 exactly sure. I do -- I do not recall exactly
16 when. I don't have a specific date and time on
17 this day. I just -- it's kind of all a blur.
18 That was -- that was my former life and I really
19 try hard to just forget about those times, and
20 you're asking me to remember specific dates and
21 times. That's not the person who I am today.

22 Q. How did you get started selling drugs?

23 A. I believe I already answered that
24 question.

1 Q. No, I don't believe you have. I mean,
2 do you -- you have to get the drugs from
3 somewhere. How do you -- how does one become a
4 drug dealer?

5 MS. MARTINEZ: Objection. Form.

6 You can answer.

7 A. I don't recall. It's, you know, it
8 was -- it was everywhere, so it wasn't really
9 particularly hard, you know, when you're coming
10 from the environment where I'm coming from, it
11 wasn't particularly hard to allocate, you know,
12 drugs to sell or to use. You know, growing up in
13 the Black and Brown community, it's -- it was
14 everywhere.

15 Q. Did you have a crew that you sold with?

16 MS. MARTINEZ: Objection. Form.

17 You can answer.

18 A. I -- I don't recall.

19 Q. Do you recall any of the people that
20 you sold drugs with?

21 A. That's a good question. Like I said,
22 that -- that was a part of my life that I really
23 tried over the years to try and forget, so I don't
24 recall. That was a long time ago.

1 Q. Do you recall the names of any of the
2 people you bought drugs from?

3 A. That's -- that's another real good
4 question. No, I don't recall. It was mostly a
5 nickname basis like Jim. I don't recall.

6 Q. And I apologize if I asked you this
7 before. I don't recall. Did you sell drugs to
8 Rick McClanahan?

9 A. That's a good question. I -- I knew he
10 used drugs. That's a good question. I don't
11 recall. It was so long ago.

12 Q. How did you know he used drugs?

13 A. Just by the crowd that he kept.

14 Q. Who was in the crowd that he kept?

15 A. Drug users.

16 Q. Can you tell me their names?

17 A. At this time, I -- I can't remember
18 specific names from -- from over 20 years ago.
19 These were not my friends or my associates, you
20 know.

21 Q. Did you ever sell drugs to Rhonda
22 Curry?

23 A. I can't recall.

24 Q. Did you ever have a dispute with Rick

1 McClanahan about some drugs you sold him?

2 A. I don't recall there being any bad
3 blood between me and Mr. McClanahan.

4 Q. I believe you testified that you have
5 not read Rhonda Curry's deposition; is that
6 correct?

7 A. Yes, that's correct.

8 Q. All right. I will represent to you
9 that in her deposition she testified that you sold
10 drugs to her and to Rick McClanahan. Do you
11 dispute that?

12 A. I don't dispute it. I don't have a
13 recollection of it, I do not. I do not recall.
14 I'm not sure what she might have said or what she
15 might have accused me of.

16 I don't know what this has to do with
17 me being wrongfully incarcerated for 16 years for
18 a robbery that I didn't commit. You know, I'm not
19 sure how to even answer that question.

20 Q. At any time were you affiliated with a
21 gang?

22 MS. MARTINEZ: Objection to form.

23 You can answer.

24 A. No, I was not affiliated with a gang.

1 Q. All right. I'm going to ask you a
2 couple of names. I'd like to tell -- I'd like you
3 to tell me who they are, please.

4 Tor Hill?

5 A. I have no recollection of that name.

6 Q. Kyle Ramsey?

7 A. Kyle Ramsey, I do know who that is --

8 Q. Who is that?

9 A. -- who that was.

10 Q. Mr. Ramsey is deceased?

11 A. Mr. Ramsey is deceased.

12 Q. Who is Kyle -- who was Kyle Ramsey?

13 A. Kyle Ramsey was a good father, a
14 good -- a good friend. He just tried to help
15 everyone he could. And he -- and he met his -- he
16 was gone too soon.

17 Q. To your knowledge, did Kyle Ramsey sell
18 drugs?

19 A. To my knowledge, Kyle Ramsey did
20 whatever he had to do. It's not really my
21 business.

22 Q. Can you give me an answer, yes or no,
23 please? To your knowledge, did Kyle Ramsey sell
24 drugs?

1 A. Yes.

2 Q. Do you know what drugs he sold?

3 A. No.

4 Q. Are you aware of any conflict between
5 Kyle Ramsey and Rick McClanahan?

6 A. No, I am not.

7 Q. When did Kyle Ramsey die?

8 A. I believe Kyle Ramsey passed away while
9 I was in prison, while I was in prison against my
10 will, while I was wrongly incarcerated, so I
11 believe it was during the first two years. I
12 remember it being a particularly hard thing on a
13 lot of people from the neighborhood. I believe it
14 was 2007. And it always hurt me because I wished
15 that I could have been there to help him and help
16 his family in some way.

17 Q. Was Kyle Ramsey a friend of yours?

18 A. At one point we were pretty good
19 friends.

20 Q. At what point was that?

21 A. It was -- it was -- it was during the
22 '90s. I --

23 Q. Did you --

24 A. -- distinctly remember him having a

1 laugh that would light up the whole room, man, you
2 know. He wasn't a perfect individual, but he was
3 going through something.

4 Q. Did you have a falling out with
5 Mr. Ramsey?

6 A. Me, myself? No.

7 Q. What do you know about the
8 circumstances of his death?

9 A. From what I can remember, from what I
10 read in the newspaper, the local newspaper,
11 he -- he got shot. He was shot. Somebody tried
12 to rob him or something like that. I'm not
13 particularly sure what happened. Like I said, I
14 was in prison at the time and...

15 Q. Do you know an individual named Derrick
16 Greathouse?

17 A. I do know that name.

18 Q. Who is Derrick Greathouse?

19 A. He was also somebody from the
20 neighborhood.

21 Q. Did Derrick Greathouse sell drugs?

22 A. I don't -- I don't recall that.

23 Q. Was he a friend of yours?

24 A. He was a -- he's a former associate,

1 somebody who I knew back in the day. I wouldn't
2 describe him as a friend.

3 Q. What do you mean when you describe him
4 as an associate?

5 A. Somebody that I knew back before the
6 year 2004. You know, when I came home in 2004, I
7 decided to change my life, so I didn't want to
8 associate with certain people. So that's the
9 definition of associate. He wasn't a friend. He
10 wasn't somebody that I would invite over for
11 family dinner.

12 Q. Have you ever been dependent on drugs?
13 MS. MARTINEZ: Objection. Form.
14 You can answer.

15 A. Dependent on drugs? No, I have not.

16 Q. Did you ever sell drugs to finance your
17 own drug habit?

18 A. No, I did not.

19 THE WITNESS: Is it time for a break
20 yet?

21 MR. EPSTEIN: Would you like a break?
22 We can take a break.

23 THE WITNESS: We get a break every
24 hour, right? And you want me --

1 MR. EPSTEIN: Not necessarily every
2 hour, but if you would like a break --

3 THE WITNESS: Yeah.

4 MR. EPSTEIN: -- we'll take -- we'll
5 take 10 or 15 minutes.

6 THE WITNESS: But you did want me to
7 make sure that I answered the question first,
8 right? So I --

9 MR. EPSTEIN: You did answer it and I
10 appreciate that.

11 THE WITNESS: I wanted to make sure I
12 slipped that in right after.

13 MR. EPSTEIN: I appreciate that.

14 THE WITNESS: No sense in being rude,
15 right?

16 MR. EPSTEIN: That's right.

17 THE VIDEOGRAPHER: We are off the
18 record. The time is 11:00.

19 (A short recess is taken.)

20 THE VIDEOGRAPHER: This marks the
21 beginning of Media No. 2. We are back on the
22 record. The time is 11:15.

23 BY MR. EPSTEIN:

24 Q. Mr. Horton, is it fair to say that

1 you've had a number of attorneys who've
2 represented you during the course of your criminal
3 proceedings?

4 A. Yeah, I think that's a fair assessment.

5 Q. And those attorneys were filing
6 pleadings in court on your behalf while you were
7 incarcerated, correct?

8 A. Yes, that's correct.

9 Q. When they would file those, did they
10 send you copies so you could see what you -- what
11 they were doing?

12 A. Yes. Yes, they would.

13 Q. Because you wanted to keep up on your
14 case, right?

15 A. I absolutely wanted to keep up on my
16 case. There would be some instances where I would
17 have to -- you know, you got these shady appeal
18 lawyers and you would have to demand copies of the
19 paperwork or -- you know, I was pretty involved in
20 my case. In some instances I would like to see
21 the paperwork before it was filed. I must admit,
22 you know, being wrongfully incarcerated, I
23 really -- I had to be a handful with some of my
24 former attorneys.

1 Q. So you would read the paperwork
2 sometimes before it was filed and definitely after
3 it was filed, correct?

4 A. Yes.

5 - - - - -

6 Thereupon, Exhibit 4 is marked for
7 purposes of identification.

8 - - - - -

9 Q. I'm going to hand you what I've marked
10 as Exhibit 4. It's a document captioned
11 Defendant's Petition for Post-Conviction Relief
12 Pursuant to R.C. 2953.21. Do you recognize this
13 document?

14 A. Yes, I do recognize this.

15 Q. This is a document that was filed on
16 your behalf by Brian Howe. If you look at the
17 very last page, you'll see an electronic
18 signature. Do you see Mr. Howe's name?

19 A. Yes, I see it.

20 Q. And he represents that he's from
21 The Ohio Innocence Project?

22 A. Yes, that's correct.

23 Q. Was Brian Howe one of your attorneys?

24 A. Yes, Brian Howe from The Ohio Innocence

1 Project, he was one of my attorneys.

2 Q. And this is a pleading that Mr. Howe
3 filed, asking for post-conviction relief, correct?

4 A. It looks like it's -- yeah, it's a
5 petition for post-conviction relief, yeah.

6 Q. Do you understand what post-conviction
7 relief means?

8 A. I believe it means relief after I was
9 convicted.

10 Q. Is this the sort of document that you
11 would have reviewed either before or after it was
12 filed?

13 A. This -- this is an example of
14 something -- there was a lot of paperwork over
15 16 years. This is -- yes, this is a pretty
16 accurate example.

17 Q. All right. Could you turn to page 15,
18 please. Now, I haven't been using Bates numbers,
19 but this document begins at Horton 001190 and
20 page 15 is Horton 001204. Are you with me on
21 page 15?

22 A. I am.

23 Q. All right. I'd like to direct your
24 attention to the bottom of the page. There's a

1 footnote 3, and it says, quote, Adidas boy was
2 Horton's nickname.

3 Do you see that?

4 A. I see it.

5 Q. So Mr. Howe told the court that your
6 nickname was Adidas boy, correct?

7 A. That's what it says. Is that what it
8 says right here, that Mr. Howe told them that?

9 I'm not --

10 Q. Well, this is the pleading that
11 Mr. Howe wrote, correct?

12 MS. MARTINEZ: Objection. Foundation.

13 A. I see -- there's no way for me to know
14 who wrote this.

15 Q. Well, is it fair to assume that
16 somebody --

17 A. From The Ohio Innocence Project?

18 Q. -- from The Ohio Innocence Project
19 wrote --

20 A. Oh, I'm sorry.

21 Q. -- this?

22 A. I'm sorry. Yes, this looks like
23 paperwork filed by The Ohio Innocence Project.

24 Q. And it was filed on your behalf,

1 correct?

2 A. Yes.

3 Q. And it was signed by Mr. Howe?

4 A. Yes.

5 Q. And he represented or the author of
6 this represented that Adidas boy was Horton's
7 nickname, correct?

8 A. That's what it looks like here.

9 Q. Did you ever reach out to Mr. Horton or
10 anyone else at The Innocence Project to tell them,
11 no, in fact, it was Adidas man?

12 MS. MARTINEZ: Objection. Just now you
13 said Mr. Horton. I think you mean -- do you mean
14 Mr. Howe?

15 MR. EPSTEIN: I'm sorry. Did I
16 misspeak?

17 MS. MARTINEZ: I think so.

18 BY MR. EPSTEIN:

19 Q. Did you -- did you reach out to
20 Mr. Howe or anyone else at The Innocence Project
21 to tell them that it was Adidas man, not Adidas
22 boy?

23 A. I do not recall. When you're working
24 with -- when you're -- when you're fortunate

1 enough to have somebody like The Ohio Innocence
2 Project take on your case, you know, you really
3 try not to get into the way, you know. So I'm not
4 sure if I would have tried to correct something
5 so -- something like this.

6 Q. Well, that's a fair point, but you
7 testified earlier that you wouldn't let anyone
8 call you Adidas boy because that resonated badly
9 with you as a Black man, correct?

10 A. Yes. And it still does.

11 Q. Okay. But you didn't say anything
12 about this?

13 A. Yeah. This is -- I -- I'm -- I'm not
14 sure if I did or if I didn't. I can't recall.
15 This -- this is -- there's a big difference
16 between it being in writing on a pea of -- on a
17 piece of paper than for a White man as yourself to
18 be calling me or suggesting, you know, calling me
19 boy in any shape or form. There's a big
20 difference there.

21 Q. I understand that. But apart from the
22 racial implications, certainly if your lawyer had
23 submitted something that you knew was not
24 accurate, you would want to correct that, wouldn't

1 you?

2 MS. MARTINEZ: Objection. Form.

3 A. Like I said, working with The Ohio
4 Innocence Project has been a great privilege, so I
5 do not recall if I would have tried to correct him
6 because I felt so fortunate, you know, for them to
7 even look at my case, much alone -- much let alone
8 actually get me out of prison for a crime I didn't
9 commit.

10 Q. And I appreciate that, but I don't
11 think you answered my question. My question was,
12 you would not want them submitting information
13 that was, in fact, not accurate?

14 MS. MARTINEZ: Same objection.

15 A. I'm not sure how to answer that
16 question because it, you know, I -- I wouldn't
17 want them -- no, I wouldn't want them putting
18 anything out there that was not factual.

19 - - - - -

20 Thereupon, Exhibit 5 is marked for
21 purposes of identification.

22 - - - - -

23 Q. I'm going to hand you what I've marked
24 as Exhibit 5. This is a document captioned

1 Application for DNA Testing. It has our Bates
2 numbers beginning at 003514. Are you familiar
3 with that document? Do you recognize this
4 document?

5 A. Give me one second, please.

6 Q. Okay.

7 MS. MARTINEZ: Make sure to flip
8 through it if you need to.

9 A. It's a lot -- it's a lot of paper.
10 Give me one more second.

11 I do recognize this document.

12 Q. What is this document?

13 A. This document, it looks like it says an
14 Application for DNA Testing.

15 Q. And if you turn to page 28. You see a
16 signature line there for Brian Howe again,
17 correct?

18 A. Correct.

19 Q. And also Mark Godsey. Do you see that?

20 A. Correct.

21 Q. Was Mark Godsey also representing you
22 from The Innocence Project? Was Mr. Godsey one of
23 your attorneys?

24 A. I'm not sure. I'm not sure how to

1 answer that question.

2 Q. All right. But you were aware that
3 they submitted an application to have some
4 materials DNA tested, correct?

5 A. Yes.

6 Q. Did you review this application before
7 they filed it?

8 A. I -- I'm not sure.

9 Q. Did you review this application after
10 they filed it?

11 A. I -- I -- I did review this application
12 after they filed it.

13 Q. Can you turn to page 21, please. At
14 the bottom of the page, do you see there's a
15 footnote 10?

16 A. Yes.

17 Q. Can you read that, please?

18 A. Footnote 10. It has Adidas boy in
19 quotation marks, was Horton's nickname.

20 Q. So this is the second time that The
21 Innocence Project lawyers have filed a pleading
22 indicating that Adidas boy was your nickname,
23 correct?

24 A. I believe that is correct.

1 Q. Did you go back to them after they did
2 it a second time and tell them that was not
3 correct information?

4 A. I do not recall. This is such a minor
5 oversight, I don't think that I would.

6 Q. Do you think the difference between
7 Adidas boy and Adidas man is a minor distinction?

8 A. Well, when -- when you -- let me see
9 how I can answer the question. I'm -- I'm not
10 100 percent sure.

11 Q. You're not 100 percent sure about what?

12 A. It depends on the perspective, would it
13 be a minor perspective or not, would it be a minor
14 issue or not.

15 Q. Okay. But what I'm trying to establish
16 is, was your nickname Adidas boy? And it seems
17 like twice now your lawyers have told the court
18 that you were. Were they mistaken?

19 A. It looks like it was a mistake there.

20 Q. But you never went back to them and
21 told them that was a mistake, correct?

22 A. No. Because --

23 MS. MARTINEZ: Objection.

24 THE WITNESS: Oh. I'm sorry.

1 MS. MARTINEZ: It's okay. Objection.

2 A. No. Because --

3 MS. MARTINEZ: You can answer.

4 A. -- you know, like I said in the
5 beginning, you know, depending -- this was a
6 nickname from high school, whether it was man or
7 boy, and depending on what circle of people were
8 calling me this or saying this phrase, I have no
9 control who said what. You know, I don't know
10 where this nickname originated from, so I can't be
11 completely sure, you know.

12 Q. So was there a circle of people that
13 would have called you Adidas boy back in high
14 school?

15 A. It's impossible for me to remember that
16 from so long ago.

17 Q. Do you --

18 A. I'm sorry.

19 Q. -- know where your lawyers got the
20 information that Adidas boy was your nickname?

21 MS. MARTINEZ: Objection. Foundation.

22 You can answer.

23 A. No, I do not.

24 - - - - -

1 Thereupon, Exhibit 6 is marked for
2 purposes of identification.

3 - - - - -

4 Q. I'm going to hand you what I've marked
5 as Exhibit 6.

6 MS. MARTINEZ: Thanks.

7 Q. This is a pleading captioned
8 Defendant's First Amended Petition for
9 Post-Conviction Relief Pursuant to Revised Code
10 2953.21. Do you see that?

11 A. I see it.

12 Q. Okay. And if you turn to the last
13 page, page 23. It's signed once again by Brian
14 Howe of The Innocence Project?

15 A. I see it.

16 Q. And submitted to the court on the 22nd
17 day of May 2020. It's at the bottom in the
18 Certificate of Service. Do you see that?

19 A. I see it.

20 Q. So this would be another pleading that
21 was submitted to the court on your behalf by your
22 attorneys?

23 A. Yes.

24 Q. Do you recognize it?

1 A. Let me look over it for one second,
2 please. It looks familiar.

3 Q. I direct your attention to page 15,
4 please. Do you see footnote 3 at the bottom?

5 A. Yes.

6 Q. Can you read that, please?

7 A. It has Adidas boy in quotation marks,
8 was Horton's nickname.

9 Q. So this is now three times that your
10 attorneys have told the court that your nickname
11 was Adidas boy, correct?

12 A. That's correct.

13 Q. So I'll ask you again. At least in
14 some --

15 MR. EPSTEIN: Sorry.

16 Q. At least in some circles was your
17 nickname Adidas boy?

18 MS. MARTINEZ: Objection. Asked and
19 answered.

20 You can answer.

21 A. I do not recall.

22 Q. At some point in time you started to
23 sell drugs in West Virginia, correct?

24 A. I -- I made some mistakes in my life,

1 and that's -- that's a part of my past. So to
2 answer --

3 Q. Is that a yes?

4 A. I was -- I was getting to it, sir.
5 Sorry if I'm not moving fast enough. So I would
6 say it's safe to say yes.

7 Q. What connection did you have to
8 Parkersburg, West Virginia?

9 A. That was so long ago. It's -- I -- I
10 honestly can't recall how I first established a
11 connection with Parkersburg, West Virginia.

12 Q. Did you have family in Parkersburg,
13 West Virginia?

14 A. No.

15 Q. Did you have children in Parkersburg,
16 West Virginia?

17 A. No.

18 Q. Did you have friends in Parkersburg,
19 West Virginia?

20 A. Yes.

21 Q. Who were your friends in Parkersburg,
22 West Virginia?

23 A. Oh, that was -- that was a really long
24 time ago. I can't remember their names. It

1 was -- it was a really long time ago.

2 Q. Did someone ask you to transport drugs
3 from Columbus to Parkersburg for sale?

4 A. No.

5 Q. Did you buy drugs to sell in -- strike
6 that.

7 You sold drugs in Parkersburg, correct?

8 A. In Parkersburg, West Virginia,

9 I -- yes.

10 Q. The drugs that you sold in Parkersburg,
11 West Virginia, did you buy them in Parkersburg,
12 West Virginia?

13 A. I do not recall.

14 Q. Do you recall buying drugs in Ohio and
15 transporting them to West Virginia?

16 A. I do not recall.

17 Q. Eventually you were arrested in West
18 Virginia, correct?

19 A. Yes.

20 Q. Prior to your arrest in West Virginia,
21 how many drug convictions did you have?

22 A. Man, that's a good question. That's
23 a -- it was from so long ago. One.

24 Q. Are you telling me or are you guessing?

1 A. I do not recall, honestly.

2 Q. What do you recall about your prior
3 drug convictions before West Virginia?

4 A. I -- I recall I've been in trouble. I
5 can recall one instance for sure, but other than
6 that, it was so long ago, I'm not even sure -- I'm
7 not exactly sure -- I'm not exactly sure. I
8 was -- I was a different person then. I'm not
9 proud of who I was. I honestly tried to really
10 forget that part of my life.

11 Q. Is part of the reason that you can't
12 remember those events clearly because you were on
13 drugs at the time?

14 MS. MARTINEZ: Objection. Form.

15 You can answer.

16 A. No. It's just I'm really trying to
17 separate myself from that person I was as I turn
18 over a new leaf.

19 Q. Well, I understand separating yourself
20 in terms of doing things differently, but explain
21 to me how separating yourself means not
22 remembering.

23 MS. MARTINEZ: Objection. Form.

24 You can answer.

1 A. Just trying to -- just trying really
2 hard to forget about the -- about the -- that part
3 of my life and the mistakes that I made. Just
4 really not trying to harp on them and talk about
5 them and just really -- you got to -- you got to
6 put forth a little effort.

7 Q. So you made an effort to forget
8 everything that happened back in those days? Is
9 that your testimony?

10 MS. MARTINEZ: Objection. Form.
11 You can answer.

12 A. Yes, I have.

13 Q. What do you remember about any of your
14 criminal drug arrests in Ohio back before the West
15 Virginia arrest?

16 A. What do I remember? I remember
17 just -- just the disappointment that I let my
18 family down. I remember some of the pain that I
19 caused, you know, my relatives and people -- even
20 people who looked up to me. I just remember how
21 disappointed they was. And the shame that I
22 brought on my family's name at that time.

23 Q. But what do you remember about the
24 circumstances of the crime?

1 A. They were minor -- minor offenses from
2 what I can remember.

3 Q. What were the offenses?

4 A. I do remember one was a possession
5 charge. It might have been, in the total of my
6 lifetime, two possession charges.

7 Q. Two --

8 A. Drug abuse.

9 Q. I'm sorry?

10 A. Maybe a drug abuse and a possession
11 charge.

12 Q. And is that two plus West Virginia or
13 two including West Virginia?

14 A. That would be two including West
15 Virginia, from what I can remember at this point.

16 - - - - -

17 Thereupon, Exhibit 7 is marked for
18 purposes of identification.

19 - - - - -

20 Q. I'm going to hand you what I've marked
21 as Exhibit 7. Can you identify that for the
22 record?

23 A. This -- this looks like a criminal
24 complaint.

1 Q. This is a criminal complaint against
2 Richard H. Horton, correct?

3 A. That's correct.

4 Q. And that's you?

5 A. That is me.

6 Q. And it is dated or at least the date of
7 the offense is August 31, 1995, correct?

8 A. Yes, that's correct.

9 Q. And the charge is knowingly possessing
10 a controlled substance included in Schedule II, to
11 wit: crack cocaine. And then it goes on to talk
12 about the amount.

13 Do you see that?

14 A. I do see that.

15 Q. Do you remember anything of the
16 circumstances of this arrest?

17 A. I do not recall.

18 Q. Was this the first time you were
19 arrested for anything?

20 A. No.

21 Q. What had you been arrested for prior to
22 this?

23 A. In my juvenile upbringing, being in the
24 environment I -- I was living, I grew up in, I was

1 hanging around the wrong crowd sometimes, and I
2 believe I was arrested for attempted joyriding.

3 Q. And what was the disposition of that
4 charge?

5 A. I believe -- I do not recall. I don't
6 remember it having a significant impound -- impact
7 on my --

8 Q. So was this --

9 A. -- record.

10 Q. Was this August 1995 event the second
11 time that you were arrested in your life?

12 A. I believe so, but I can't -- I can't
13 recall, honestly.

14 Q. Do you recall the disposition of this
15 case? What ended up happening?

16 MS. MARTINEZ: Objection. Asked and
17 answered.

18 You can answer.

19 A. When you say disposition, what exactly
20 do you mean?

21 Q. I'm sorry. The disposition of the case
22 is how it gets resolved. It can get resolved by
23 being dismissed, or you go to trial and get
24 convicted and you go to jail. Do you remember how

1 it -- how it -- what the outcome was?

2 A. No, I do not recall.

3 - - - - -

4 Thereupon, Exhibit 8 is marked for
5 purposes of identification.

6 - - - - -

7 Q. I'll hand you --

8 MS. MARTINEZ: Thank you.

9 Q. -- what I've marked as Exhibit 8.

10 MS. MARTINEZ: I think, super quickly,
11 Counsel, on this one, I'll put for the record this
12 document was part of a production that was made
13 yesterday at 3:18, among a couple hundred other
14 pages. Plaintiff objected to that production
15 since some of the documents were responsive to a
16 subpoena that was returnable over a month ago, but
17 Defendants identified this and another exhibit,
18 that I believe is also two pages, for the
19 deposition today.

20 MR. EPSTEIN: Thank you, Counselor.

21 BY MR. EPSTEIN:

22 Q. Can you identify Exhibit 8 for the
23 record, please?

24 A. This says: State of Ohio versus

1 Richard Horton.

2 I'm not sure exactly how to phrase the
3 title of the document.

4 Q. Okay. That's fair. The actual caption
5 of the document just says: Entry.

6 Do you see that?

7 A. I see that.

8 Q. All right. And I will represent to you
9 that this is a sentencing entry. If you look down
10 into the fourth paragraph, three lines from the
11 bottom, it says: The court sentences the
12 Defendant to the Franklin County Corrections
13 Center for six months.

14 Do you see that?

15 A. I do see that.

16 Q. Do you remember serving six months on
17 this drug charge?

18 A. I do.

19 - - - - -

20 Thereupon, Exhibit 9 is marked for
21 purposes of identification.

22 - - - - -

23 Q. I'll hand you what I've marked as
24 Exhibit 9.

1 MS. MARTINEZ: Thank you.

2 Q. I'll ask if you can identify that for
3 the record.

4 A. This looks like a criminal complaint.

5 Q. And this is, again, a criminal
6 complaint against Richard Horton, correct?

7 A. Yes, this looks like this is against
8 Richard Horton, me, yeah. Is this the same?

9 Q. Well, let's take a look at that. If
10 you look at the first one. Do you have the
11 previous one? The date of that offense was
12 August 31st, 1995, correct?

13 A. Correct.

14 Q. What's the date of the offense on the
15 second one?

16 A. It looks like the 30th day of November,
17 1995.

18 Q. So these are not the same offense,
19 correct?

20 A. It doesn't -- no, it's not the same.

21 Q. And in the second one, the
22 November 30th one, it says you're accused of
23 knowingly possessing a substance, to wit: crack
24 cocaine. Correct?

1 A. That's what it says on the paper,
2 that's correct.

3 Q. Do you recall a second crack cocaine
4 possession charge?

5 A. I do not recall. Sorry about that.

6 - - - - -

7 Thereupon, Exhibit 10 is marked for
8 purposes of identification.

9 - - - - -

10 Q. I'll hand you Exhibit 10, which is
11 another sentencing entry. I believe this is the
12 second document that Counsel just referred to a
13 minute ago as having been recently produced.

14 MS. MARTINEZ: That's correct.

15 Q. This is the sentencing entry for the
16 November offense that we just looked at, correct?

17 A. That seems correct.

18 Q. And here you were sentenced to a
19 sentence of 12 months. Do you see that?

20 A. It says: The court orders payment of
21 the mandatory fine of \$2,500 and sentences the
22 defendant to Ohio Department of Rehabilitation and
23 Corrections for 12 months. That's what it says on
24 the paper.

1 Q. Okay. Do you recall serving 12 months
2 in the Department of Rehabilitation and
3 Corrections?

4 A. No, I do not.

5 MS. MARTINEZ: A belated form
6 objection.

7 Q. Do you recall serving a lesser time?

8 A. I do.

9 Q. How much time did you serve total on
10 these charges?

11 A. I do not recall the exact amount, but I
12 know that it wasn't six months and 12 months.
13 Sorry.

14 Q. Well, I didn't mean to suggest that it
15 was six months plus 12 months. If you -- if you
16 take a look at the first sentencing entry. Do you
17 see that, where it says six months?

18 A. Yes.

19 Q. It says to be served concurrently with
20 the sentence imposed in, and it has another case
21 number. Do you understand what that means when a
22 sentence is concurrent?

23 A. Yes, I understand.

24 Q. So your total sentence would be one

1 year, correct, because the six months runs at the
2 same time as the 12 months? Is that your
3 understanding?

4 A. Let me see. It -- it says -- it says
5 that it's ran concurrent. And it says, you know,
6 in theory it says that I would have served at
7 least 12 months, but I do not remember serving
8 12 months.

9 Q. Do you --

10 A. I don't --

11 Q. -- remember getting out sometime
12 earlier than that?

13 A. Yeah. I believe it was early release
14 for good behavior or something like that. I -- I
15 can't remember the exact reason why. But it
16 wasn't a whole year.

17 Q. Okay. But is it fair to say that you
18 had two separate drug convictions in the state of
19 Ohio in the 1990s?

20 A. I think that's fair to say. That's
21 right here.

22 Q. And so, West --

23 A. I can't deny it.

24 Q. And so, West Virginia would make a

1 total of three drug convictions, correct?

2 A. Yes.

3 Q. Let's go back to Exhibit 2, which is
4 the big binder, the transcript from the trial.
5 And if you would, turn to page 177. I'm going to
6 read a little bit of this to you. I want you to
7 follow along and make sure I read this correctly,
8 okay? Starting at line 23. Near the bottom. I'm
9 sorry. Line 21.

10 "QUESTION: What does your criminal
11 record consist of?

12 "ANSWER: My criminal record consists
13 of two drug abuse charges.

14 "QUESTION: And when were those drug
15 abuse charges?

16 "ANSWER: The first drug abuse charge
17 occurred somewhere between '95 and '97.

18 "QUESTION: What about the second one?

19 "ANSWER: The second one occurred in
20 the year of 2001."

21 Did I read that correctly?

22 A. Yes.

23 Q. Was that a correct answer?

24 MS. MARTINEZ: Objection. Form.

1 You can answer.

2 A. I believe that was a correct answer,
3 because it seems like these two charges were ran
4 concurrent, so they equal one charge.

5 Q. Well, they didn't ask you about the
6 sentence. They asked you about how many charges
7 and convictions you had, correct?

8 A. Let me go back and look at it, because
9 from my understanding, when they ran the two
10 charges convert -- concurrent, it's just equal to
11 one charge, so essentially I only went to prison
12 for one charge.

13 Q. But you were convicted twice; is that
14 your understanding?

15 A. No, that's not my understanding.

16 Q. Okay. At the time -- strike that.

17 You were arrested in West Virginia in
18 2000; is that correct?

19 A. I'm -- I'm -- I can't recall exactly
20 what year it was.

21 Q. Okay. I will represent to you for now
22 that it was 2000. We'll look at some documents
23 later just to make sure about that. What I want
24 to know is, at the time that you were arrested in

1 West Virginia, what was your family status like?

2 MS. MARTINEZ: Objection. Form.

3 Q. Were you married?

4 A. No, I was not married.

5 Q. Did you have children?

6 A. I did have children.

7 Q. How old were they at the time of your
8 arrest in West Virginia?

9 A. That is a tough question, but I am
10 going to try to be a good father and say my son
11 wasn't born yet, so my daughter may have been the
12 age of 1. Yeah, my son wasn't born yet, so...

13 Q. Who is the mother of your daughter?

14 A. Her name is Regina Johnson.

15 Q. Where does she live?

16 A. She lives in Columbus, Ohio.

17 Q. Has she lived there the entire time
18 you've known her?

19 A. I believe so, yes.

20 Q. Were you involved in a relationship
21 with her for an extended period of time?

22 MS. MARTINEZ: Objection. Form.

23 You can answer.

24 A. No. We -- we coparented.

1 Q. I'm sorry?

2 A. We -- we coparented. Not really a
3 relationship. I wouldn't describe it as a
4 relationship. Not any disrespect towards her.
5 She's a, you know, a good mother. She tries
6 really hard, but we just never really -- never
7 really got along to categorize it as a
8 relationship.

9 Q. Would you categorize it as a one-night
10 stand?

11 A. No. I wouldn't disrespect her like
12 that.

13 Q. But is that what it was?

14 A. No.

15 Q. Okay. Now, you said you coparent.
16 Back when your daughter was an infant, how did you
17 coparent?

18 A. Well, I tried to -- I tried to be
19 involved in my child's life and help out where I
20 could, but it was, you know -- and play by her
21 rules, and her rules were very strict at the time.
22 And, you know, I would try to get, you know,
23 girlfriends to help me coparent because I was
24 young and dumb, I didn't really know what to do

1 with a baby girl in particular, so I tried to get
2 as much help from family and friends and
3 girlfriends, and I just kind of winged it a lot,
4 but my daughter, she turned out all right.

5 Q. When you said that her mother had
6 strict rules, what were you referring to?

7 A. It's kind of hard to remember all the
8 rules from 25 years ago, but I remember she
9 was -- she was pretty feisty back in the day.

10 Q. Now, back at this time period, 1999,
11 2000, were you living in Columbus?

12 A. That's a good question. I was -- I was
13 back and forth between West Virginia and Columbus,
14 so...

15 Q. Did you have a residence in West
16 Virginia?

17 A. I -- I'm not -- I don't recall, because
18 when you say residence, was I staying with a
19 different girlfriend and --

20 Q. Well, let me ask a different question
21 then. Why were you back and forth between
22 Columbus and West Virginia?

23 A. I had a couple girlfriends in Columbus
24 and a couple in West Virginia, just having a

1 little fun, just living.

2 Q. Did they know about each other?

3 A. I would like to think that they didn't,
4 but I'm not exactly sure. I can't recall.

5 Q. And were you transporting drugs at the
6 same time you were going back and forth?

7 A. No.

8 Q. Did you use cocaine when you were in
9 West Virginia?

10 A. I don't recall.

11 Q. Did you avoid using cocaine when you
12 were in Columbus?

13 MS. MARTINEZ: Objection. Form.

14 You can answer.

15 A. I don't recall. It's a tough one right
16 there.

17 Q. Why is that a tough one?

18 A. Just trying to remember something from
19 25 years ago. That was -- you're asking me
20 questions about the year 2000, and it's 2025.

21 Q. I understand. Well, here's a question
22 you might remember. When you would do cocaine,
23 did you do it alone or did you do it with other
24 people?

1 MS. MARTINEZ: Objection. Form.

2 You can answer.

3 A. I don't recall.

4 Q. Do you recall any people that you used
5 cocaine with?

6 A. No, I don't recall. Sorry.

7 Q. Do you recall any people in West
8 Virginia that you sold drugs to?

9 A. No, I don't recall.

10 Q. What were the circumstances of your
11 arrest in West Virginia?

12 A. It was -- it was so long ago. It's a
13 blur. I really don't -- I really don't recall the
14 exact particulars. I know that was a -- like I
15 said before, that was a part of my former
16 life, you know. I don't -- I don't see what that
17 has to do with me being wrongfully incarcerated
18 for 16 years for a crime that I didn't commit.
19 It's just so far removed from the person I am
20 today. I just -- I can't remember exactly what
21 happened.

22 Q. Do you remember anything about what
23 happened?

24 A. I remember it was bad. It was not a

1 good look for my family. My girlfriend, I had let
2 her down. And I believe my -- I believe -- I
3 believe -- how can I phrase this -- Kobe was
4 not yet -- hadn't yet -- not yet entered the
5 world. So she was -- his mother was pregnant.
6 Yeah, I remember the shame.

7 Q. Okay. With all due respect,
8 Mr. Horton, my question wasn't about people's
9 reaction to it. My question was about the
10 circumstances of the arrest. What happened?

11 A. I can't recall.

12 Q. Can you recall anything?

13 A. Around the circumstances of what
14 happened? No. That was a really long time ago.

15 Q. What were you charged with?

16 A. I -- possession.

17 Q. Of what?

18 A. I'm not sure how they worded it. I
19 can't -- I can't recall.

20 Q. Were you guilty of the offense?

21 A. I was guilty.

22 Q. Who were you with when you were
23 arrested?

24 A. I can't recall.

1 Q. Where were you when you were arrested?

2 A. Parkersburg, West Virginia.

3 Q. Can you be more specific than that?

4 Were you at somebody's house? Were you at an
5 apartment? Were you in a public place?

6 A. I can't recall.

7 Q. Is it possible that you have no recall
8 of these events because you were on drugs at the
9 time?

10 MS. MARTINEZ: Objection. Form.

11 You can answer.

12 A. It's possible.

13 Q. And those drugs would have been
14 cocaine?

15 A. I don't recall.

16 Q. What other drug could it have been?

17 A. It could have been marijuana. That...

18 Q. In addition to cocaine, marijuana, and
19 alcohol, have you used any other illegal drugs in
20 your life?

21 MS. MARTINEZ: Objection. Form.

22 You can answer.

23 A. I'm going to say that I was really a
24 scaredy-cat, kind of scared to experiment with

1 certain drugs, LSD, ecstasy, mushrooms, never
2 really sounded appealing to me, so I'm going to
3 say no. But I'm -- I really don't recall.

4 Q. When you were in Parkersburg, West
5 Virginia, did you spend time with Derrick
6 Greathouse?

7 A. Did I spend time with Derrick
8 Greathouse? No.

9 Q. No?

10 A. No. I don't recall spending time with
11 Derrick Greathouse.

12 Q. Do you know anything about Derrick
13 Greathouse being in Parkersburg, West Virginia?

14 A. Yes. He had got into some trouble. I
15 believe he -- I believe he ran over somebody with
16 a car or something like that.

17 Q. How did you hear about that?

18 A. I knew his girlfriend. She was a very
19 beautiful young lady.

20 Q. What was her name?

21 A. I do not recall.

22 Q. And what did she tell you?

23 A. That he had ran over somebody with a
24 car.

1 Q. Did she tell you that it was
2 intentional?

3 A. No, she didn't tell me that it was
4 intentional at all. I believe she was very
5 sympathetic.

6 Q. But was he in trouble with the law
7 because of that?

8 MS. MARTINEZ: Objection. Foundation.
9 You can answer.

10 A. I do not recall.

11 Q. Do you know what the resolution of that
12 was?

13 A. Yes. I believe he went to prison for
14 that.

15 Q. Is he still in prison?

16 MS. MARTINEZ: Objection. Foundation.
17 You can answer.

18 A. I'm not sure. He's a former associate.

19 Q. Are you friends with him on Facebook?

20 A. I believe so.

21 Q. How does that come to be? I don't use
22 Facebook. How does that work?

23 A. So Facebook is mostly friends, you kind
24 of use it to rekindle relationships and check on

1 people from -- from high school.

2 Q. Did you go to high school with him?

3 A. That's a tough one. I don't remember
4 him attending school a lot, so I'm going to say I
5 don't recall.

6 Q. And how did you become Facebook
7 friends? Did you reach out to him or did he
8 contact you?

9 A. I don't recall.

10 Q. And have you communicated with him,
11 say, in the last year, through Facebook?

12 A. I believe -- I believe I have.

13 Q. About what sorts of things?

14 A. Well, when I was released in 2022, when
15 The Ohio Innocence Project got me out of prison,
16 there was kind of like a welcome wagon there. So
17 it -- it was -- and there was also a big news crew
18 there, so it was like -- it was kind of broadcast
19 all over the news that I was being released from
20 prison after being wrongfully convicted. So a lot
21 of people, you know, when I -- when I already came
22 home, I had a Facebook page that was already set
23 up, so a lot of people reached out and
24 congratulated me. So I believe that might have

1 been the correspondence you're referring to.

2 Q. Is Mr. Greathouse still incarcerated?

3 A. I don't -- I don't know what

4 Mr. Greathouse is currently doing at this very
5 moment.

6 MS. MARTINEZ: A belated objection to
7 foundation.

8 Q. All right. Since you brought up high
9 school, let me ask you a couple of other people
10 that you may or may not know from high school. I
11 may have asked you this already, but we'll start
12 with Kawanna Harris. Did you go to high school
13 with her?

14 A. Yes.

15 Q. What was your relationship with her in
16 high school?

17 A. I actually don't remember Kawanna from
18 high school. She was -- she must have been a
19 quiet and shy young lady, and I was kind of loud
20 and obnoxious, so I don't think our circles
21 collided. She says differently, but I don't
22 remember her from high school.

23 Q. How do you know she says differently?

24 A. Because --

1 MS. MARTINEZ: To the extent you can
2 answer without revealing communications with your
3 attorneys, you can answer the question.

4 Q. Does that information come to you from
5 any other source besides your lawyers, what
6 Kawanna has said about you?

7 A. No. Me and Qui -- me and Kawanna
8 Harris are -- we're good friends, so we've talked
9 about this.

10 Q. Tracy McClanahan, did you know her in
11 high school?

12 A. I do not recall. I can't -- I don't
13 know -- I knew the McClanahans. And it's been so
14 long, I can't remember, is it Tracy or Nicole, I
15 do not recall.

16 Q. Did you ever date either Tracy or
17 Nicole?

18 A. Nicole who?

19 Q. You just said Nicole.

20 A. Oh. I -- no, I did not.

21 Q. Did you ever sell drugs to Tracy
22 McClanahan?

23 A. No, I did not.

24 Q. Do you know Richard Diggs?

1 A. Yes.

2 Q. Who is Richard Diggs?

3 A. Richard Diggs, I know him from
4 elementary school. He went to Everett Middle
5 School. I believe I used to see him playing ball.
6 He was a pretty good athlete back in the '90s.

7 Q. Is he the same age as you?

8 A. I'm not sure how old he is.

9 Q. I mean, was he in the same class?

10 A. I don't remember him being in the same
11 class --

12 Q. Did you --

13 A. -- in the eighth grade.

14 Q. Did you know his brother?

15 A. I don't recall.

16 Q. His brother's name is Riccardo. Does
17 that ring a bell?

18 A. No.

19 Q. Do you know anything about the Diggs
20 brothers as adults?

21 MS. MARTINEZ: Objection. Form.

22 You can answer.

23 A. I don't recall, no.

24 Q. Well, you don't recall suggests maybe

1 at some time you did know.

2 A. As adults?

3 Q. Yeah.

4 A. I don't recall.

5 Q. Did you have any knowledge of them
6 trading identities with one another?

7 A. I don't recall.

8 Q. Is there anything that might refresh
9 your recollection about that?

10 A. No.

11 Q. What I'm trying to figure out,
12 Mr. Horton is, when you say "I don't recall," does
13 that mean "I may have known and I've forgotten,"
14 or "No, I don't know"? Are you using "I don't
15 recall" in place of "I don't know"?

16 MS. MARTINEZ: Objection to form.

17 You can answer.

18 A. I'm using the statement "I don't
19 recall" in the place of "I do not know."

20 Q. Who is Kobe's mother?

21 A. Her name is Quiana Mathews.

22 Q. And where does she live?

23 A. Currently?

24 Q. Yes.

1 A. I'm not sure.

2 Q. When was the last time you had an
3 address for her or knew where she was?

4 A. Probably in the year 2022.

5 Q. Where was she then?

6 A. I believe she lived in Georgia.

7 Q. Were you in regular contact with her up
8 until 2022?

9 A. Yes. She is the mother of my child, so
10 when I was in prison, I would reach out to her
11 because I wanted to try to have a relationship
12 with my son. Even though I was in prison, I
13 always tried to at least attempt to reach out.
14 And her being the adult, I would have had to, you
15 know, get her permission to speak with my son.
16 You know, due to this wrongful incarceration, it
17 puts a big wedge between me and my kids, so I
18 would try to have -- I would -- I would definitely
19 have to speak with her to try to be able to speak
20 with my son.

21 It was -- it was definitely hard
22 sometimes, because he -- you know, everybody -- a
23 lot of people thought that I was in prison for
24 something that I did and, you know, trying to

1 convince your son that you're innocent but yet
2 you're still gone for so long, it was difficult,
3 man. It -- it -- it wasn't easy.

4 Q. Do you know what happened to her after
5 2022?

6 A. Yes.

7 Q. What happened to her?

8 A. She went to prison.

9 Q. What did she go to prison for?

10 A. I -- I'm not exactly sure what it was.
11 It's not my business.

12 Q. What state did she go to prison in?

13 MS. MARTINEZ: Objection. Foundation.
14 You can answer.

15 A. Man, she lived in Georgia, so I'm not
16 exactly sure. I'm sorry.

17 Q. Let's back up. Do you know when Kobe
18 was born?

19 A. Yes.

20 Q. When?

21 A. He was born in 2001.

22 Q. Were you in prison when he was born?

23 A. No.

24 Q. Was --

1 A. When Kobe -- go ahead. I'm sorry.

2 Q. No. Go ahead.

3 A. Kobe was born at Ohio State hospital.
4 He was born with a form of heart disease. We
5 didn't know he had heart disease until two or
6 three days later. I remember it was a very
7 difficult birth. But also I remember, you know,
8 his mother being triumphant and having a
9 successful birth. And I remember, you know, the
10 time I was able to spend with him before I had to
11 turn myself in to go to West Virginia.

12 And he had to have open-heart surgery
13 at 8 months old. And I remember still trying to
14 be a part of his life, you know, because, you
15 know, he hadn't, you know -- it wasn't his fault
16 that his father was messing up and not mature.
17 And just trying to, you know, tell him that I was
18 going to be a better person whenever I -- when I
19 got out in 2004. And it was just a very difficult
20 beginning for his life.

21 Q. So let me make sure I heard you
22 correctly. At the time that he was born, you were
23 facing charges in West Virginia, correct?

24 A. That's correct.

1 Q. But at the time he was born, you were
2 not yet incarcerated on those charges?

3 A. That's correct. I was there for my
4 son's birth.

5 Q. How long were you in prison in West
6 Virginia?

7 A. I was in prison in West Virginia for, I
8 think it was 26 months.

9 MR. EPSTEIN: Let's go off the record
10 for a second.

11 THE VIDEOGRAPHER: We are off the
12 record. The time is 12:14.

13 (A short recess is taken.)

14 THE VIDEOGRAPHER: This marks the
15 beginning of Media No. 3. We are back on the
16 record. The time is 12:23.

17 BY MR. EPSTEIN:

18 Q. Mr. Horton, how many -- excuse me. How
19 many prison facilities were you in in West
20 Virginia?

21 MS. MARTINEZ: Objection. Form.

22 You can answer.

23 A. That's a good question. In West
24 Virginia, it's kind of like a tier system, so

1 I -- I honestly -- I don't want to give you an
2 incorrect answer.

3 Q. I appreciate that.

4 A. Three -- three or four. I think.

5 Q. What do you mean by a tier system?

6 A. You get -- it's very different from the
7 Ohio prison system. You get a better reward for
8 staying out of trouble. So in West Virginia you
9 might start off as a -- at a higher level
10 facility, and the longer you stay out of trouble,
11 you work your way down to maybe even a work
12 release facility.

13 Q. When you say a higher level facility,
14 you mean higher security?

15 A. Yes.

16 Q. Where did you start when you were first
17 incarcerated, what level of security?

18 A. I started at a higher level security
19 facility.

20 Q. What does that entail?

21 A. Well, I always tell people prison is
22 just -- it's exactly how you see it in the movies.
23 It's cold, it's dark, it's uncomfortable, it's
24 steel, it's bricks. And for the higher level

1 security, you're usually in a cell most of the
2 day, if not 20-plus hours a day.

3 Q. Did you receive medical care while you
4 were in custody in West Virginia?

5 A. Yes.

6 Q. Do you remember any particular things
7 you were treated for?

8 A. Yes. A broken nose.

9 Q. Did you, at some point in your life,
10 break an ankle?

11 A. Yes.

12 Q. When was that?

13 A. That was in the '90s. Well, I'm
14 not -- let me -- let me -- let me -- let me
15 correct that. Sorry if I misspoke.

16 That was -- that was before -- that was
17 before the prison stay in West Virginia. I'm not
18 sure exactly what year it was. Man. Sorry about
19 that.

20 Q. When you would go to a new location in
21 West Virginia, did they do intake interviews?

22 A. I can -- I -- I do not recall. That's
23 a tough one right there.

24 Q. Do you remember at all being

1 interviewed about your mental and physical health
2 by prison staff?

3 MS. MARTINEZ: Objection to form.

4 You can answer.

5 A. While incarcerated in West Virginia?

6 Q. Correct.

7 A. I do remember being interviewed.

8 Q. Do you remember similar medical and
9 psychological interviews when you were
10 incarcerated in Ohio after the Loew Street
11 robbery?

12 A. I do remember. I do remember, like,
13 intake interviews in --

14 THE WITNESS: I'm sorry.

15 THE VIDEOGRAPHER: I'm sorry.

16 A. -- in Ohio.

17 Q. And what sorts of things would they ask
18 you in the intake interviews?

19 A. They would ask you about your health,
20 do you have any underlying health issues, are you
21 on medication, those type of things.

22 Q. Would they ask you about your
23 background more generally?

24 A. Very generally, I believe they would.

1 Q. Were you honest with them?

2 A. I do not recall.

3 Q. Can you think of any reason why you
4 would have given untruthful information to those
5 folks who were interviewing you?

6 A. In prison, depending on how you answer
7 those questions, you'll be placed in certain
8 facilities in the -- in certain areas of the
9 facility. So if I wasn't truthful, the reason
10 would have been because of I didn't want to get
11 placed in certain areas of the prison. Maybe I
12 didn't want to be around people who might have
13 been perceived as weak because of various drug
14 addictions, or, you know, if I -- if my ankle
15 wasn't completely healed up, I didn't want to be
16 over here with the people who were fully healthy
17 because I would be, you know, possibly in danger
18 of my life. So that would have been my logic at
19 that particular time in answering those questions
20 if I answered them untruthfully.

21 Q. Can you give me an example of a
22 question that, depending on the answer, you
23 thought would get you assigned to a different
24 place?

1 A. Well, if -- if -- like I said, I broke
2 my ankle before I turned myself in to go to prison
3 in 2001. So I might have let them know that I
4 broke my ankle, my ankle was still healing up, I
5 didn't want to be placed in an area of the prison
6 that I would have had to walk a long way to get to
7 the chow hall, because, you know, they serve you
8 breakfast, lunch, and dinner, so that long walk
9 would have -- possibly that type of scenario, I
10 could see where somebody would say or where I
11 would say, yeah, my ankle is healed up pretty good
12 or my ankle is not healed up pretty good, you
13 know, put me over here.

14 Q. What about questions about prior drug
15 use?

16 A. I -- I do not recall specific
17 questions.

18 Q. I'm not asking you about specific
19 questions. I'm asking can you think of a reason
20 why giving an answer about prior drug use would
21 direct you into one area or another one depending
22 on what the answer was?

23 A. Okay. Let's -- I'll go with the
24 positive spin on it. Let's say I was -- I wanted

1 to go get into a certain program, so I would say,
2 hey, I want to get into this program, I have a
3 drug problem.

4 Q. So there's an incentive sometimes to
5 lie and say you have a drug program when you -- a
6 drug problem when you don't? Not you
7 particularly, but an inmate might have an
8 incentive to claim a drug problem that he doesn't
9 have?

10 A. Yes, yes.

11 Q. What about the converse? Is there an
12 incentive for an inmate to deny prior drug usage
13 when he does have a drug history?

14 MS. MARTINEZ: Objection. Form.

15 You can answer.

16 A. I'm not sure. Maybe -- I'm not sure.
17 That's a -- that's a tough one right there. Maybe
18 he didn't want to be in -- in the program. Maybe
19 he didn't want the incentives of possibly going
20 home early, or maybe he doesn't -- you know, maybe
21 he has a drug problem and says he doesn't have a
22 drug problem. I'm not -- I'm not sure how to
23 answer that one.

24 Q. Okay. What about mental health? You

1 were asked questions about a history of depression
2 and things like that, correct?

3 A. I -- I believe so.

4 Q. Are there incentives you can think of
5 where an inmate would either want to deny a
6 history of depression when he had one or admit a
7 history of depression when he didn't?

8 A. Yes. That type of scenario would be
9 someone in denial. And the way that they
10 take care -- the way that they handle mental
11 health in prison is they kind of force-feed you
12 drugs. So a person might not want to take the
13 drugs because some of the drugs, you know, they
14 have adverse effects. Some of the drugs are so
15 high in -- in -- in volume, you know, I've seen
16 people actually change, you know, from who they
17 were, their posture, you know, I'm not sure
18 exactly what drugs, because, you know -- but I
19 could see -- I could see that scenario, a person
20 in denial about their mental health and they,
21 quite frankly, just don't want to be on drugs.

22 Q. What about the opposite? Is there any
23 benefit to the inmate to claiming a mental problem
24 when they don't have one?

1 A. Yeah, I could -- I could see that
2 happening to somebody.

3 Q. How would that work?

4 A. Maybe -- maybe they -- they wanted to
5 get high off the drugs, so they would lie and
6 smear feces on the wall and have suicide attempts
7 just so they can get on the drugs. And really it
8 might -- you know, I'm not a doctor, but that
9 might not even be the -- oh, sorry -- that might
10 not be the case, you know, they might be doing it
11 just for show.

12 Q. Could you get a change in housing
13 depending upon your mental health state?

14 A. In West Virginia?

15 Q. Both West Virginia and Ohio, what was
16 your experience?

17 A. Well, yes, you know, if you're in
18 prison, if you're smearing feces on the wall,
19 you're not going to be housed next to the same guy
20 who has never been in trouble, so, yeah, you're
21 going to be in --

22 Q. But I'm talking --

23 A. -- different facilities.

24 Q. I'm talking about something a little

1 more benign than smearing your feces on the wall.

2 Just a general claim of depression.

3 A. Just a general? It might be a little
4 difficult, you know, because, you know, prison is
5 not a happy place. It's a sad place. So, you
6 know, if you just go in there and say you're
7 depressed, I mean, that probably happens 20 times
8 a day.

9 Q. Okay. Can you think of any instances
10 where you gave untrue information to prison
11 officials doing an assessment for strategic
12 reasons?

13 MS. MARTINEZ: Objection. Form.

14 You can answer.

15 A. I do not recall.

16 - - - - -

17 Thereupon, Exhibit 11 is marked for
18 purposes of identification.

19 - - - - -

20 Q. I'm going to hand you what's been
21 marked as Exhibit 11. The Bates stamp again is at
22 City 007863. The document is captioned State of
23 West Virginia, Division of Corrections, Parole
24 Services. This is a document that we obtained

1 from the State of West Virginia, and I'll
2 represent to you that it includes intake
3 interviews from Richard Horton. Do you see your
4 name on the front there?

5 A. I see it.

6 Q. I want to direct your attention to the
7 second page. Specifically, the fourth paragraph
8 under Circumstances. Five lines down, toward the
9 end, do you see where it begins: The subject
10 indicated?

11 MS. MARTINEZ: If you need to read the
12 whole paragraph, please do.

13 Q. You can read the whole paragraph if you
14 want to. Are you ready?

15 A. Yes.

16 Q. Okay. So the paragraphs are describing
17 the circumstances of your arrest. And the
18 paragraph begins that both the subject,
19 Mr. Horton, and Hill, which refers to Tor Hill,
20 were taken into custody.

21 And then the second line: A more
22 complete body search revealed one small plastic
23 baggy with several tan yellowish chunks of
24 material inside. It was found in the genital area

1 of the subject.

2 Reading that, does that refresh your
3 memory of the circumstances of your arrest in West
4 Virginia?

5 A. No. No, it doesn't.

6 Q. Okay. Then moving down a couple lines.
7 The subject indicated he had been dealing crack
8 cocaine between two to three years, selling it in
9 increments of 20's, 50's, and 100's.

10 Do you see that?

11 A. I see it.

12 Q. What are increments of 20's, 50's, and
13 100's?

14 A. I do not recall.

15 Q. You don't know what that phrase means?

16 A. I'm not sure how to describe it to you.
17 No, I don't. I don't.

18 Q. Well, how would you sell crack cocaine
19 when you had a customer?

20 A. I -- I can't remember. That was part
21 of my past life. I've since changed my ways. You
22 know, this -- this -- you know, I -- I don't
23 remember any of this.

24 Q. How much would you charge for crack

1 cocaine?

2 A. I'm not sure. It's not something that
3 I'm proud of.

4 Q. I understand that, but I want to know
5 what you recall. So this indicates that you made
6 this statement to -- to the intake interviewer.
7 And it's your testimony that you do not remember
8 making this statement, correct?

9 A. That's correct.

10 Q. Do you have any reason to doubt that
11 you made this statement?

12 A. Yes.

13 Q. Why?

14 A. I've never seen this document before a
15 day in my life.

16 Q. Well, I understand that you haven't
17 seen the document before. My question is, do you
18 have any reason to doubt that you made this
19 statement back at the time of your arrest?

20 A. I think I already answered that
21 question. Because I've never seen this document.

22 Q. That's the only basis for you doubting
23 that you made the statement is that you've never
24 seen the document before, correct? Let me go on a

1 little bit more with the paragraph. It says: A
2 hundred would be somewhere near -- somewhere
3 around a gram.

4 Do you see that?

5 A. I see it.

6 Q. And that's in quotation marks, correct?

7 A. Yes.

8 Q. All right. He also admitted to being a
9 crack cocaine user. 12 to 15 trips a year would
10 be made from Columbus to Parkersburg with, quote,
11 never more than half an ounce, end quote, being
12 delivered at a time. The subject estimated having
13 made between 30 and 45 trips to Parkersburg during
14 the preceding three years. The subject told Nohe
15 the names of some of the individuals to whom he
16 delivered the drug.

17 Is that information accurate?

18 MS. MARTINEZ: Objection. Form.

19 You can answer.

20 A. There's a lot of information in here.

21 I -- I --

22 Q. Okay. Well, let's break it down. Did
23 you, in fact, make between 30 and 45 trips to
24 Parkersburg during the preceding three years?

1 A. I don't recall.

2 Q. Were you a crack cocaine user?

3 A. I don't recall that. I don't recall
4 that, no. I don't recall.

5 Q. You don't recall or you were not?

6 A. I don't recall.

7 Q. You traveled 12 to 15 trips a year from
8 Columbus to Parkersburg with never more than half
9 an ounce at a time. Is that an accurate
10 statement?

11 A. It's a lot of information on here. I'm
12 not proud of the person that I was a long time
13 ago, but I can't say who said this. I've never
14 seen this document before.

15 Q. Okay. Well, if the officials from West
16 Virginia come in and say that you made this
17 statement, would you have any reason to contradict
18 them?

19 A. Well, quite frankly, after being
20 wrongly incarcerated for 16 years for a crime that
21 I didn't commit, it kind of -- and, you know,
22 seeing some of the articles that's been on the
23 news for these last few years since I've been home
24 about police misconduct, it would -- that kind of

1 gives me a lot of reason to not necessarily trust
2 everything that the police department, especially
3 the Columbus Police Department, says. So I
4 wouldn't --

5 Q. But this is not the Columbus Police
6 Department, correct?

7 A. I wouldn't bet my life on anything that
8 an officer from Columbus or West Virginia says.

9 Q. Okay. Let's turn to the next page. Do
10 you see at the top of the page, subsection C,
11 Defendant's Statement? It's at the top of the
12 third page. Defendant's Statement.

13 A. Yes.

14 Q. The subject indicated he was bringing
15 crack cocaine into Parkersburg from Columbus,
16 Ohio, and had been doing it off and on for nearly
17 three years. He made his living dealing drugs.
18 The subject estimates earning between \$20,000 and
19 \$30,000 per year on the sale of drugs.

20 Did I read that correctly?

21 A. That's what it says on the paper.

22 Q. Were you earning between 20,000 and
23 30,000 a year on the sale of drugs back in 1999
24 and 2000?

1 A. I do not recall.

2 Q. What's your best estimate of how much
3 you were earning from the sale of drugs back in
4 that time period?

5 A. I don't even have an estimate. It
6 was -- that was a long, long time ago.

7 Q. The subject indicated he was bringing
8 crack cocaine into Parkersburg from Columbus,
9 Ohio, doing it on and off for nearly three years.

10 Is that an accurate statement?

11 A. I -- I don't know who wrote this stuff
12 down. I can't -- I can't remember.

13 Q. Well, those are two different answers.
14 It doesn't matter who wrote it down. My question
15 is, is it accurate?

16 A. I have no idea.

17 Q. Is it possible that it's accurate?

18 A. I have no idea.

19 Q. Can you turn to page 5 of this exhibit?
20 It's Bates No. 7867. At the top, under section A,
21 Use of Alcohol or Drugs. The subject's history
22 involves alcohol, cocaine, and marijuana. The
23 subject does not believe he has an alcohol or drug
24 problem but indicated he, quote, had, end quote, a

1 problem with, quote, cocaine and weed, end quote.

2 He further stated it has taken him about six
3 months to get off drugs following his arrest.

4 Did I read that correctly?

5 A. That's what it says on the paper.

6 Q. All right. Did you get off drugs after
7 your West Virginia arrest?

8 MS. MARTINEZ: Belated form objection.

9 You can answer.

10 A. I'm going to say yes.

11 Q. You're going to say yes, that after
12 your arrest you got off drugs? Is that your
13 testimony?

14 A. I believe so, yes.

15 Q. How did you do that?

16 A. While incarcerated in West Virginia,
17 they have -- like I said before, there's -- it's
18 an incentive-based system, so I attended -- I do
19 remember attending AA and NA classes, and learning
20 a lot about how addiction works and learning a lot
21 about addiction, and learning, you know, the ups
22 and downs. I heard some very good stories while
23 attending AA and -- yeah.

24 Q. Based upon your experience in AA and NA

1 in West Virginia prison, did you come to believe
2 that you had an addiction?

3 A. That's a good question. No, I kind of
4 think it further cemented the fact that I wasn't
5 addicted because, you know, I don't know if you've
6 ever been to an AA meeting, but they have a
7 gentleman come in front of the class and basically
8 tell their life story about how alcohol or drugs
9 caused their demise.

10 And like I said before, I wasn't fully
11 mature at this time in my life and I think it had
12 the opposite effect of me believing that I had a
13 drug problem or alcohol problem. I kind of
14 compared myself to those individuals and, you
15 know, seeing how alcohol and drugs and seeing what
16 it had done to their life, you know, I was -- I
17 was not mature enough to see it yet, not mature
18 enough to see it --

19 Q. So at the --

20 A. -- to go to those classes.

21 Q. -- time you did not believe that you
22 had a drug problem?

23 A. No, I didn't believe I did.

24 Q. Did you come to understand later that

1 you had a drug problem?

2 A. Looking back on it now, being more
3 mature now, being more involved in my faith and,
4 yeah, when I look back on it, it seems like I was
5 using it as a coping system and just really just
6 trying to escape the harsh realities of life, so,
7 you know, for lack of a better term, it seemed
8 like there definitely was a problem there.

9 Q. It says: The subject does not believe
10 he has an alcohol or drug problem but indicated he
11 had a problem with cocaine and weed.

12 Does that correctly reflect your
13 opinion about yourself at the time?

14 A. At this time, I do not recall.

15 Q. Jump down three paragraphs. The
16 subject began using cocaine while living in
17 Parkersburg in 1999.

18 Does that sound correct to you?

19 A. No.

20 Q. When did you first start using cocaine?

21 A. I cannot recall.

22 Q. Who --

23 A. This was -- just because it's written
24 here on this paper doesn't mean it to be true.

1 It's only like a sworn statement not in my
2 handwriting.

3 Q. I understand. I'm asking you whether
4 it's accurate.

5 Who first gave you cocaine?

6 A. I do not recall.

7 Q. Where were you when you first took
8 cocaine?

9 A. I would probably say -- I -- I do not
10 recall.

11 Q. And I apologize if we went over this.
12 Have you -- have you taken both powder and crack
13 cocaine?

14 A. I've never done crack cocaine.

15 Q. All right. Back to that paragraph we
16 were looking at about you beginning to use it in
17 Parkersburg in 1999. The paragraph continues: He
18 used it on average of twice a week.

19 Does that sound like an accurate
20 estimation of how often you used cocaine in 1999?

21 A. Like I said before, just because it's
22 written on this paper, it doesn't -- it doesn't
23 sound like something -- it doesn't sound like me,
24 no.

1 Q. So your answer is no, that's not an
2 accurate statement?

3 A. It doesn't sound like an accurate
4 statement. But I've never seen this document
5 before.

6 Q. I understand that.

7 He denied using it in Columbus, saying,
8 quote, I have a reputation to keep up.

9 Did you make that statement?

10 A. I'm not sure who made these statements.

11 Q. Is it possible that you made that
12 statement?

13 A. I'm not sure.

14 Q. So it's possible?

15 A. I'm really not sure. This -- I've
16 never seen this document before.

17 Q. I understand you haven't seen the
18 document before. I'm asking you about the
19 statement.

20 MS. MARTINEZ: Objection. Asked and
21 answered.

22 You can answer.

23 Q. Did you try to avoid using cocaine when
24 you were in Columbus because you had a reputation

1 to keep up?

2 A. I don't recall.

3 Q. So it's possible?

4 A. It was a long time ago. I honestly
5 don't recall.

6 Q. And then once again, two sentences
7 later: He brought crack cocaine from Columbus to
8 Parkersburg where he sold it.

9 Did you do that?

10 A. No.

11 Q. You never brought cocaine from Columbus
12 to Parkersburg to sell?

13 A. No.

14 Q. How do you recall that so clearly?

15 A. It seemed -- doing something like that
16 would indicate that it seems pretty dangerous, you
17 know, there -- I could remember in Parkersburg
18 partying, being young and dumb, but something like
19 that seems like it would have been taboo because
20 of the ramifications. You know, transporting
21 drugs is -- it's a little bit -- it seems kind
22 of -- kind of dangerous.

23 Q. So you're making an assumption that you
24 wouldn't have done it because it was dangerous,

1 correct?

2 A. No. I'm -- I'm making the assertion
3 that I wouldn't have done it.

4 Q. Turn to the next page. Some of this is
5 repetition. Again, when asked how he supports
6 himself -- this is in the third paragraph -- when
7 asked how he supports himself, he replied that
8 he's dealt drugs for several years and earned
9 between 20,000 and 30,000 per year, but not
10 consistently.

11 Again, did you tell them that that was
12 the case, that you sold drugs for several years
13 and earned between 20,000 and 30,000 dollars a
14 year?

15 A. I do not recall.

16 Q. All right. Second paragraph from the
17 bottom, there's a sentence that says: The subject
18 has a severe drug addiction to both marijuana and
19 crack cocaine which will need to be addressed
20 through counseling while incarcerated.

21 My question is, did anybody at the West
22 Virginia prison tell you that in their opinion you
23 had a severe drug addiction to marijuana and crack
24 cocaine?

1 MS. MARTINEZ: I'll object to the form.

2 And if you need to read that section,
3 feel free.

4 A. Can you repeat the question?

5 Q. Sure. You saw the sentence that I
6 read, correct? The subject has a severe drug
7 addiction to both marijuana and crack cocaine
8 which will need to be addressed through counseling
9 while incarcerated.

10 Do you see that sentence?

11 A. I see that sentence.

12 Q. The question is, did anybody from the
13 West Virginia prison staff tell you that in their
14 opinion you had a severe drug addiction to both
15 marijuana and crack cocaine?

16 A. Throughout the whole 26 years while I
17 was incarcerated, did they explain that?

18 Q. You were not incarcerated for 26 years
19 in West --

20 A. I mean --

21 Q. -- Virginia.

22 A. Sorry about that. Strike that.

23 26 months. I do not recall.

24 Q. Do you recall anyone ever telling you

1 while you were incarcerated in West Virginia that
2 in their opinion you had a drug addiction?

3 A. I do not recall.

4 Q. You indicated that you participated in
5 NA and AA while you were in West Virginia prison,
6 correct?

7 A. Yes, that's correct.

8 Q. And when we say AA, we mean Alcoholics
9 Anonymous, correct?

10 A. That is correct.

11 Q. And NA would be Narcotics Anonymous?

12 A. That is correct.

13 Q. How does one get into a program like
14 that in prison? Do you just say you want to go?

15 A. The way it works, from what I can
16 remember, I do believe you -- some of it was
17 mandatory in some facilities and some of it was
18 voluntary.

19 Q. Mandatory for all inmates?

20 A. In certain facilities, I -- yes, it was
21 mandatory.

22 Q. Did you attend sessions of those in
23 facilities where it was not mandatory?

24 A. Yes, I did.

1 Q. How did that come about?

2 A. Well, in prison, there's not really a
3 lot to do, a lot of fun things to do, a lot of
4 entertaining things to do. So on -- let's say on
5 a Tuesday night they would have AA. And you start
6 to see, you know, the people who are attending the
7 classes it actually, you know, is making a
8 difference on how they thought and carry
9 themselves.

10 And so at some point I -- I attended a
11 few classes voluntarily, just, you know, to try to
12 escape from whatever madness was going on around
13 me and try to see, you know, what the -- what
14 this -- what the fuss was all about.

15 Q. Well, clarify for me, because I thought
16 I heard two different answers in there. Did you
17 attend because you saw the beneficial effects it
18 was having for the people who went or did you
19 attend because you were bored and you didn't have
20 anything better to do?

21 A. I might have given two different
22 answers. Sorry about that. But it was probably a
23 mixture of both. I mean, when you're sitting in
24 prison, it's a -- it's a dark place, you're

1 looking for some light, and on -- and on some
2 occasions I might just have went because I was
3 bored, you know.

4 Q. What made you think that these programs
5 would do any good for you if you didn't think you
6 had a drug or alcohol problem?

7 A. Because they're faith-based programs.
8 They started off with very much speaking about
9 faith, you know, and talking about the Lord and
10 God, so that was a good start for me right there.
11 That kind of piqued my interest right there.

12 Q. Now, correct me if I'm wrong, but my
13 understanding is the first step in these programs
14 is acknowledging that you have a problem with a
15 substance; is that correct?

16 A. I do not recall the 12 Steps. Sorry.

17 Q. Do you remember that -- that
18 acknowledgment of a problem being part of the
19 process?

20 A. I -- I do.

21 Q. How did you deal with that if you
22 didn't think you had a problem?

23 MS. MARTINEZ: Objection. Form.

24 You can answer.

1 A. Like I said, I was young and immature
2 and I never, like I -- I never really believed I
3 had a problem, so I wasn't in there trying to earn
4 the badges and stuff. I was just in there to hear
5 the life lessons. And, you know, maybe sometimes
6 I was in there just to get out of my prison cell.

7 MR. EPSTEIN: We're going to take a
8 lunch break at this point. We will go off the
9 record.

10 THE VIDEOGRAPHER: We're off the
11 record. The time is 12:58.

12 - - - - -

13 Thereupon, a luncheon recess is taken
14 at 12:58 p.m.

15 - - - - -

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1 Thursday Afternoon Session,

2 December 19, 2024.

3 - - - - -

4 THE VIDEOGRAPHER: This marks the
5 beginning of Media No. 4. We are back on the
6 record. The time is 1:59.

7 - - - - -

8 Thereupon, Exhibit 12 is marked for
9 purposes of identification.

10 - - - - -

11 BY MR. EPSTEIN:

12 Q. Okay. Mr. Horton, I just want to ask
13 you a couple of more quick questions about your
14 experience in West Virginia. I'm going to hand
15 you what I've marked as Exhibit 12. It's a series
16 of documents from the Parkersburg Police
17 Department. You can take your time looking over
18 the document if you want to, but I'm not going to
19 ask anything substantive really about it. The
20 first page is an arrest report with your name on
21 it, correct?

22 A. Correct.

23 Q. And it indicates a height of 6'1",
24 correct?

1 A. That's correct.

2 Q. Is that your height?

3 A. That's correct.

4 Q. And then just for the record, this is
5 showing an arrest date of September 30th, 2000.

6 It's just before the dark line. Just above the
7 dark line in the center.

8 A. That's correct.

9 Q. All right. And does that sound right
10 for the date that you were arrested in West
11 Virginia?

12 A. It sounds -- it -- it was so long ago.

13 Q. Can you turn to the second page of the
14 exhibit? The second page consists of four
15 photographs, correct?

16 A. That's correct.

17 Q. And who are those photographs of?

18 A. The photographs are so dark, I almost
19 can't even tell.

20 Q. Well, do you recognize the person in
21 the photograph?

22 A. That is me, yeah.

23 Q. It is you in all four photographs,
24 correct?

1 A. Yeah.

2 Q. Before we broke for lunch, you were
3 talking about the different levels of security in
4 the West Virginia system, and you had talked about
5 you can work your way up to a work release
6 program; is that correct?

7 A. That's correct.

8 Q. Did you, in fact, make it into a work
9 release program while you were incarcerated in
10 West Virginia?

11 A. Yes, I did.

12 Q. How did that work?

13 A. Let me see, how did it. The way work
14 release works is you essentially are granted a
15 privilege to leave the prison and go live in kind
16 of like a halfway house setting. I think in
17 Columbus they refer to it as a halfway house. So
18 it's a bunch of inmates living in essentially
19 what's like a dorm, a house.

20 Q. Okay. Well, if you could, confine your
21 description to the experience in West Virginia.

22 A. Okay. Sorry about that.

23 So it was you lived there, there's a
24 different set of rules, you get a job, you're

1 allowed to open up a bank account, you have to pay
2 a percentage of your salary to live there and
3 you're encouraged to save your money, they help
4 you find jobs, there's lots of programming offered
5 in there. Yeah. That's about it.

6 Q. How long were you in that program?

7 A. I was in two different work release
8 programs while being incarcerated in the state of
9 West Virginia and -- I do not recall.

10 Q. When you say you were in two different
11 programs, what were the two different programs?

12 A. One was in Huntington, West Virginia.
13 And the other one was in a different county in
14 West Virginia. I want to say -- I'm not sure.
15 Was it Beckley, West Virginia?

16 Q. What jobs did you have during that
17 time?

18 A. The jobs that I had that I can
19 remember, I worked as a telemarketer and I worked
20 in a kitchen for the most part.

21 Q. How much were you paid?

22 A. I can't -- I can't recall the exact
23 amount, but it was -- I was able to -- I was able
24 to save more than what I spent.

1 Q. So you had a bank account in West
2 Virginia where the money went into?

3 A. I -- I can't -- I can't recall exactly
4 the name of the bank. It was so long ago.

5 Q. But you did have a bank account?

6 A. There was a savings system in place.

7 Q. Was it with a private bank or something
8 operated by the -- by the State or the penal
9 system?

10 A. I'm not sure. I can't -- I can't
11 remember.

12 Q. Would the employer give you a physical
13 check or would they electronically deposit your
14 money?

15 A. This was back in the early 2000s, so I
16 believe it was a physical check.

17 Q. At the time of your release, how much
18 money did you have in that account?

19 A. Oh, that's a good question. Oh.
20 Maybe -- maybe about four or five thousand
21 dollars.

22 Q. When you left the prison, that money
23 then reverts to you, correct?

24 A. Yeah, they give it to you in the form

1 of a check.

2 Q. When were you released from prison in
3 West Virginia?

4 A. April of 2004, I believe.

5 - - - - -

6 Thereupon, Exhibit 13 is marked for
7 purposes of identification.

8 - - - - -

9 Q. I'm handing you what's been -- excuse
10 me -- marked as Exhibit 13. Can you identify that
11 for the record? Do you recognize that?

12 A. State of West Virginia, Division of
13 Corrections. I'm sorry, I do not recognize this
14 paper.

15 Q. All right. Well, I will represent for
16 the record that the first page is a document from
17 the State of West Virginia, ordering of release.
18 It's an order of release on parole. And you see
19 on the second line this is the order to release
20 Richard Horton, correct?

21 A. I see it.

22 Q. And the date of the release is
23 April 13th, 2004, correct?

24 A. That's correct.

1 Q. Which is consistent with what you said
2 a moment ago that you thought you had been
3 released in April of 2004? Yeah?

4 A. Yes.

5 Q. Okay. The second page is captioned
6 Parole Agreement. And it appears to put forward
7 some conditions for people to abide to. At the
8 bottom there's a signature above parolee. Is that
9 your signature?

10 A. That is my signature.

11 Q. So you agreed to those conditions? Did
12 you agree to those conditions?

13 A. Yes, I would.

14 Q. All right. And then the third page are
15 the rules and regulations governing your release.
16 Do you see that?

17 A. I see it.

18 Q. And again, is that your signature at
19 the bottom?

20 A. That is my signature.

21 Q. Did you have a parole officer when you
22 were released?

23 A. Yes.

24 Q. Who was that?

1 A. I do not recall.

2 Q. Was it a man or a woman?

3 A. I think it was a woman.

4 Q. Can you turn to the fourth page? In
5 the middle of the page it says you are instructed
6 to report your arrival immediately by phone or in
7 person to Senior Officer Robin Karim.

8 Does that refresh your recollection
9 about who your parole officer was?

10 A. No. I'm sorry.

11 Q. That's okay. This appears to suggest
12 that you were released to a parole officer in
13 Ohio, correct?

14 A. Yes.

15 Q. Did you have to get special permission
16 to have your parole in Ohio rather than West
17 Virginia?

18 A. I can't recall.

19 Q. Did you abide by these rules and
20 conditions while you were on parole?

21 MS. MARTINEZ: You can look through
22 them again if you need to.

23 A. To the best of my knowledge, I did
24 abide by all the rules.

1 Q. Okay. Let me ask you about a couple of
2 specific requirements. On page 2, the Parole
3 Agreement, under item 5, there's a subpart 2. Do
4 you see that?

5 A. I see it.

6 Q. You are -- excuse me. Strike that.

7 You are to obtain a legitimate AA/NA
8 sponsor as approved and required by your parole
9 officer and attend meetings on a regular basis.

10 Did your parole officer require you to
11 get a sponsor?

12 A. Not that I remember, no.

13 Q. Okay. On the third page, the first
14 part, section 2.1 and then there's subpart (a).
15 When released, you must proceed directly to the
16 place to which you have been paroled and report to
17 your parole officer within 24 hours unless
18 otherwise instructed.

19 Do you see that?

20 A. I see that.

21 Q. Did you do that?

22 A. Yes, I believe I did abide by section
23 2.1(a).

24 Q. Okay. 2.1(b). You are to have written

1 permission of your parole officer before you leave
2 the prescribed area of supervision to which you
3 are paroled.

4 Did you have any occasion to leave the
5 prescribed area during the term of your parole?

6 MS. MARTINEZ: Objection. Form.

7 You can answer.

8 A. I don't recall.

9 Q. What did you understand the prescribed
10 area of your supervision to be?

11 A. The -- the way I read it, it seems like
12 something that you would need permission to leave
13 the state for. When they talk about area, I'm not
14 sure of the actual circumference of the area, it's
15 not stated here, but it just seems like that you
16 would need written permission from your parole
17 officer before you leave the prescribed area.

18 Q. And you understood that to be the state
19 of Ohio?

20 A. Yes, sir.

21 Q. Between the time of your release in
22 2004 and the time of your incarceration in 2006,
23 did you leave the state of Ohio?

24 A. Yes.

1 Q. Where did you go?

2 A. I went to -- I went to Alabama.

3 Q. For what purpose?

4 A. I wanted to go see my son. My son with
5 heart disease, I wanted to go see him.

6 Q. Did you get permission from your parole
7 officer to do that?

8 A. I do not recall.

9 Q. Subpart g. You must report within
10 24 hours to your parole officer each time you are
11 arrested or questioned by officers of any law
12 enforcement agency.

13 Do you see that?

14 A. I see it.

15 Q. Did you ever have any occasion to
16 report to your parole officer that you had been
17 arrested or questioned by officers of a law
18 enforcement agency?

19 A. Other than this case, yes, I did have
20 an instance where I would have -- I would have
21 wanted to report.

22 Q. What incident was that?

23 A. On the way -- wait a minute. Oh, man,
24 my memory. You know what, I don't recall. I

1 think I'm getting a trip to Alabama confused. I'm
2 trying to remember what year it was. I -- I'm
3 drawing a blank right here. Man, what year was
4 that? Yeah, I do not recall.

5 Q. Is there a specific incident you're
6 thinking of that you're not sure when it occurred?

7 A. Yes.

8 Q. What incident are you thinking of?

9 A. It's an incident that happened in --
10 before all of this took place, so I'm -- I'm --
11 I'm mixing up the two dates.

12 Q. Okay.

13 A. This was something that happened
14 earlier and I was on my way to see my son. Yeah,
15 I'm getting it a little bit mixed up. Sorry about
16 that.

17 Q. Well, that's okay. Let's see if we can
18 tease it out. You were on your way to your son
19 and what happened?

20 A. Oh, this was before all of this.

21 Q. Okay. But still, you were on your way
22 to your son and what happened?

23 A. I -- this -- this was before all this,
24 so I don't want to, you know, go into detail

1 because I'm mixing the details up. I actually
2 don't even think -- I'm confusing two instances.
3 I don't even think my son was even born yet, so --

4 Q. Okay.

5 A. -- I'm sorry about that.

6 Q. Well, but I want to be clear. Did you
7 have an incident where you had an encounter with
8 police officers while you were on your way to see
9 your son?

10 A. No.

11 Q. Did you have -- strike that.

12 Was there an occasion where you were on
13 your way to see your son and something occurred
14 that if it happened in this time period would have
15 been a reportable incident?

16 A. I do not recall.

17 Q. You were still on parole when you were
18 arrested in 2004 for the Loew Street robbery,
19 correct?

20 A. That's correct.

21 Q. Did you report that to your parole
22 officer?

23 A. Yes.

24 Q. As you sit here today, can you remember

1 any other reports that you made to your parole
2 officer?

3 A. Yes, I can.

4 Q. What can you tell me?

5 A. So as -- as the other document states,
6 I was paroled to a Camden Avenue address.

7 Q. Uh-huh.

8 A. So while I was on parole for the charge
9 in West Virginia, I -- I'm not sure exactly how
10 this came to light, but I found out there was a
11 warrant for my arrest for breaking down a door on
12 the Camden Avenue address. So I told my parole
13 officer. They said, figure it out. And we
14 figured it out.

15 Since the alleged incident happened at
16 the place where I was currently living at, you
17 know, I'm assuming that it really wasn't a big
18 deal because it might have been some -- a mixup in
19 the paperwork or whatever it was. But I don't
20 remember it being a serious enough offense or that
21 I did anything wrong because, like I said, this
22 was the exact same residence where I was living,
23 so it didn't seem like a big deal to him, and I
24 didn't make a big -- well, to her it didn't make a

1 big deal, so I didn't make a big deal out of it.

2 Q. Well, how did you find out about this,
3 that there was some problem relating to your
4 entrance into Camden?

5 A. Could you rephrase that, please?

6 Q. I mean, was there -- was there a police
7 report, were you arrested, were you questioned,
8 how did this happen?

9 A. This was -- this was from years
10 earlier. I had a family dispute with someone,
11 with my aunt, at the -- at the Camden address, so
12 that's where it originated from.

13 I didn't know there was a warrant out
14 for my arrest because, you know, they let me
15 parole from West Virginia to Columbus, Ohio, so I,
16 you know, that's not -- that's not my
17 responsibility, I didn't even know. They really
18 shouldn't -- they should have sent me straight to
19 jail because there was an active warrant for my
20 arrest, but they didn't, and we got it worked out.

21 Q. Okay. Let me see if I'm understanding
22 this. So you had an aunt who lived at Camden,
23 correct?

24 A. That's correct.

1 Q. What was her name?

2 A. Her name was Nancy Banner.

3 Q. And at some point before you went to
4 prison in West Virginia, there was an incident
5 where you might have broken into that place or
6 they thought you had broken into that place?

7 MS. MARTINEZ: Objection. Form.

8 You can answer.

9 A. There was an incident there, a family
10 dispute there, at the address on Camden Avenue,
11 between myself and Mrs. Banner, and it was a while
12 ago.

13 Q. And so there was a warrant outstanding
14 from that incident?

15 A. I believe so.

16 Q. And that -- you became aware of that
17 warrant in 2004 while you were under parole
18 reporting obligations, correct?

19 A. That's correct.

20 Q. And so you reported that to your parole
21 officer?

22 A. Yes, sir.

23 Q. Okay. So now we have two reports to
24 your parole officer, right, one for the Camden

1 Avenue warrant and one for Loew Street. Were
2 there any other encounters with police or arrests
3 while you were on parole?

4 A. Not that I can recall.

5 Q. And you have no recollection of any
6 other reports to your parole officer?

7 A. Not from the year of 2004 on, no, sir.

8 Q. Where was your son living in 2004 when
9 you were paroled from West Virginia?

10 A. I believe he was living with his mother
11 in, I'm not 100 percent sure, California, maybe.

12 Q. Has he lived in multiple places?

13 A. Yes, you know, and I don't -- I don't
14 fault her for that, you know, I'm the child's
15 father, but, you know, I don't -- he's lived in
16 California, Alabama, Georgia, Florida, lots of
17 different places while I was sitting in prison for
18 16 years for a crime that I didn't commit.
19 It's -- yeah, it's taken a toll on him.

20 Q. Who did he live with in Alabama?

21 A. I believe he stayed with his mother and
22 his grandma.

23 Q. Is that where they're from?

24 A. I believe that's where the grandmother

1 was from, but I'm not 100 percent sure. She's a
2 very sweet lady, but I don't know all the
3 particulars about her.

4 Q. Your son has medical problems or he did
5 anyway as a child, correct?

6 A. Yes, he -- he has still to this day has
7 medical problems.

8 Q. Was his residence in Alabama in any way
9 related to his medical condition?

10 A. I -- that wasn't my decision, so I -- I
11 do not recall. Sorry.

12 Q. Do you know anything about your son
13 experiencing a life-threatening accident at some
14 time?

15 A. Yeah. This is while I was incarcerated
16 in the state of Ohio. He -- he was at school,
17 trying to show off with some young ladies, and he
18 went into AFib. And they had to -- they had to
19 lift him by helicopter from the school to a
20 hospital.

21 And that was a pretty tough time,
22 just, you know, just being so far away and not
23 being able to do anything, you know. And there's
24 the guilt of, you know, did he get heart disease

1 from my side of the family. It's just -- it
2 wasn't a good time. But he was able to -- he was
3 able to -- the doctors did a fantastic job. The
4 first responders did a fantastic job.

5 Q. When you were released from prison,
6 were you able to go see your son?

7 A. When I was released from prison?

8 Q. In 2004.

9 A. In 2004? I do not recall.

10 Q. You think he may have been in
11 California at that point, but you're not sure?

12 A. That's correct.

13 Q. You went back to prison in 2006,
14 correct, for the Loew Street robbery?

15 A. For the Loew Street charge, yes.

16 Q. You were incarcerated in 2006?

17 A. Yes.

18 Q. Where was Kobe living at that time?

19 A. He -- at that time he was living in
20 Columbus, Ohio.

21 Q. Who was he living with?

22 A. Once again, I'm sorry, that was -- that
23 was 20 years ago. I'm not even sure. I'm not
24 sure. You know, the trauma from what happened to

1 me right around that time, I'm not sure exactly
2 where he was living.

3 Q. Was there any conversation about him
4 coming to live with you?

5 A. Previous, before I got wrongfully
6 incarcerated, yes. Yes.

7 Q. Tell me about those conversations.

8 A. Well, they were -- they were tough
9 because his mother, you know, like I said,
10 she's -- she's pretty feisty, but I knew that
11 she -- she had -- she had either just -- she had
12 just got out of prison, so I don't think she was
13 stable.

14 So, you know, I would see him, go to
15 see him throughout the week, but it was a delicate
16 situation because I was still kind of newly
17 married and, you know, just asking my wife, you
18 know, to take on a lot of that responsibility of,
19 you know, being a stepmom to a child with heart
20 disease, it was -- it was a little touch and
21 go, you know. Some conversations went good, some
22 conversations didn't go so well, but, you know, we
23 did the best we could.

24 Q. Okay. Let's back up a second. You

1 were paroled in April of 2004, correct?

2 A. I was paroled, yes.

3 Q. You came back to Columbus immediately
4 afterwards, correct?

5 A. Yes.

6 Q. And where did you live?

7 A. Camden Avenue.

8 Q. In Nancy Banner's house?

9 A. That's correct. In her basement.

10 Q. In her basement. How long did you stay
11 there before you moved out?

12 A. I never really moved all the way out.
13 I kind of just stayed, you know, in between
14 places, just trying to really figure it out.

15 I'd say when Janette and I got married,
16 that was kind of -- that would probably be the
17 best date when I was officially moved all the way
18 out, and that was -- oh, I got to get this right
19 on camera -- July 5th, 2005.

20 Q. Okay. So you've jumped a year from
21 April of 2004 to July of 2005. At some point in
22 that period of time you moved to Reynolds Avenue,
23 correct?

24 MS. MARTINEZ: Objection. Form.

1 You can answer.

2 A. I stayed, like I said before, I stayed
3 in a couple of different spots. I moved around a
4 little bit.

5 Q. Well, you rented Reynolds Avenue,
6 correct?

7 A. I was -- it was a couple of guys. It
8 was kind of like a fraternity house.

9 Q. Who lived there?

10 A. A couple different guys.

11 Q. What were their names?

12 A. Their names -- I don't recall. That
13 was a long time ago.

14 Q. Do you remember any of their names?

15 A. Do I remember who all names was on the
16 lease besides mine? If my name was on the
17 lease -- I don't recall.

18 Q. Who did you lease it from?

19 A. The -- the gentleman's name, he was an
20 older Russian guy. I can't remember his name.
21 Sorry.

22 Q. How much was the rent?

23 A. Maybe about 5 or -- maybe 600.

24 Q. Now, is that \$600 that you paid or \$600

1 that got split amongst all the tenants?

2 A. I would say it was split.

3 Q. Why did you rent the Camden place if
4 you were -- I'm sorry. Why did you rent the house
5 if you were still living in Camden?

6 A. The reason I would, you know, I didn't
7 want to continue to live in my aunt's basement for
8 the rest of my life. In the year 2004, I was
9 trying to get my life together and trying to
10 change and force that change. And, you know, just
11 living in, you know, I was -- it's a blessing, you
12 know, I'm always forever thankful for my aunt to
13 give me the opportunity, but I didn't want to, you
14 know, being -- I forget how old I was at the
15 time -- 26, 25, 26, I didn't want to stay in her
16 basement forever.

17 Q. What did the Everett [sic] Street house
18 look like?

19 MS. MARTINEZ: Objection. Form.

20 You can answer.

21 A. You know, I don't know how long you've
22 lived in Columbus, Ohio, but it -- it's -- that
23 neighborhood is not a terrible neighborhood. You
24 have doubles, duplexes, single-family homes.

1 - - - - -

2 Thereupon, Exhibit 14 is marked for
3 purposes of identification.

4 - - - - -

5 Q. I'm going to hand you what's been
6 marked as Exhibit 14. Is that a picture of the
7 Everett [sic] Street house? I'm sorry. I keep
8 saying Everett. Is that a picture of the Reynolds
9 Avenue house?

10 MS. MARTINEZ: Objection. Form.

11 You can answer.

12 A. I haven't seen that house in a long
13 time.

14 Q. Does that look familiar to you?

15 A. It does look familiar.

16 Q. Do you think that might be a picture of
17 the house that you rented?

18 A. I think it might be.

19 Q. Did you have a job when you came back
20 from West Virginia?

21 A. Yeah. I worked at -- yes, I did.

22 Q. And where did you work?

23 A. I worked at Popeyes Chicken and
24 Biscuits on Livingston Avenue.

1 Q. What did you do there?

2 A. During my employment there, I was -- I
3 was a cook.

4 Q. Did you have a regular shift?

5 A. Yes, I did have a regular shift when I
6 was working at Popeyes.

7 Q. What was your shift?

8 A. I can't remember. I'm not sure,
9 exactly sure what the shift was. First shift.

10 Q. Well, how many hours did you work?

11 A. It varied. It wasn't -- working, like
12 I said, being a certain age, working at a place
13 called Popeyes Chicken and Biscuits, it varied. I
14 didn't, you know, really want to -- I never really
15 was striving to be employee of the month. Just
16 have a job, have some income coming in, and keep
17 my parole officer happy.

18 Q. Did you have any other jobs at the
19 time?

20 A. I don't recall.

21 Q. So it's possible you did?

22 A. It's possible.

23 Q. But you don't recall any of them?

24 A. I don't recall because, you know,

1 sometimes -- yeah, I did have other jobs. I would
2 do what's called residential cleanouts of homes
3 and stuff like that.

4 Q. Who did you do that for?

5 A. I've done it for various different
6 customers, just kind of cleaning out attics and
7 maybe stuff like that.

8 Q. But were you working for a company or
9 were you self-employed?

10 A. Self-employed.

11 Q. And was this during 2004, 2005?

12 A. Yeah. Yes.

13 Q. What other jobs did you have in that
14 time period?

15 A. I -- I don't recall if I had any other
16 jobs at that time.

17 Q. Did you sell drugs during that time?

18 A. No.

19 Q. When did you meet Janette?

20 A. I met Janette shortly after my release
21 from prison in 2004.

22 Q. Can you be specific about when you met
23 her?

24 A. I got out in April, so I know it was

1 after that. A couple months after that.

2 Q. Where did you meet her?

3 A. I met her at a bar.

4 Q. Which bar?

5 A. It was a bar on Sinclair and Morse
6 Road.

7 Q. What time was it? I mean, was it late,
8 early morning, dinnertime?

9 A. That's a good question. It was -- it
10 was after dinnertime.

11 Q. Was this a bar you frequented?

12 A. No. I don't recall. I've been there a
13 time or two. It wasn't like -- there was nothing
14 wrong with it or anything illegal about it. Yeah,
15 I've been there before.

16 Q. Did you just meet her as another person
17 in the bar or was there a setup of any kind?

18 A. Just met her. Just bumped into her,
19 kind of.

20 Q. And then you eventually married her?

21 A. Yeah. I can remember her having a
22 distinctive hairstyle and it kind of piqued my
23 interest, and the rest, they say, is history.

24 Q. Did you have a bank account when you

1 came back to Columbus?

2 A. Yes, I did have a bank account.

3 Q. How many accounts did you have?

4 A. I do not recall. That's a good
5 question.

6 Q. Was it possible that you set up
7 accounts at more than one bank?

8 A. It is possible.

9 Q. Why would you do that?

10 A. You know, well, while -- while I was in
11 prison, I -- I learned a lot more about finances.
12 And I'm actually pretty good, pretty good with my
13 money now, a little bit better, a lot better, so I
14 really -- I'm really not sure why I would have had
15 more than one bank account if I had more than one
16 bank account.

17 - - - - -

18 Thereupon, Exhibits 15 and 16 are
19 marked for purposes of identification.

20 - - - - -

21 Q. Okay. I'm handing you what's been
22 marked as Exhibit 15 and Exhibit 16. You may
23 recognize these. These were exhibits at your
24 criminal trial. Exhibit 15 is a bank statement

1 for an account at Telhio Credit Union in the name
2 of R. Horton. Can you see that?

3 A. Yeah.

4 Q. Was this the bank account that you had
5 at the time?

6 A. Yes.

7 Q. All right. And the -- the date for
8 this statement appears to cover the months of
9 September and October 2004. Can you see that?

10 A. Yes, I can see that.

11 Q. So this would have been just before the
12 Loew Street robbery, correct?

13 MS. MARTINEZ: I'm just going to
14 object.

15 Q. Actually, a little before and a little
16 after.

17 MR. EPSTEIN: Thank you.

18 A. That's what the dates indicate on the
19 paper.

20 Q. Okay. So I just -- I need to walk you
21 through a couple of these because do you see
22 there's a column called Credits?

23 A. Yes.

24 Q. And there are amounts listed on there

1 with dates. So, for example, on September 7th,
2 there's a \$428.52 deposit into the account. Do
3 you see that?

4 A. I see it.

5 Q. And then a \$105 deposit three days
6 later. Do you see that?

7 A. I see it.

8 Q. A \$190 deposit into the account three
9 days later?

10 A. I see it.

11 Q. A \$170 deposit into the account three
12 days later?

13 A. I see it.

14 Q. A \$310 deposit into the account four
15 days later?

16 A. I see it.

17 Q. Where are these deposits coming from?

18 MS. MARTINEZ: Objection. Form.

19 You can answer.

20 A. My answer to this question would be
21 this is proof that I didn't know a lot about
22 finances back then. And I do not recall each and
23 every -- each and every deposit into a bank
24 account from the year 2004. It's impossible for

1 me to remember exactly where every dollar came
2 from.

3 Q. But what sources would you have had
4 deposits coming from?

5 A. Well, my main source would be from my
6 job at Popeyes Chicken and Biscuits, but other
7 than that, I really can't speculate.

8 Q. All right. And that brings us to
9 Exhibit 16, which is an earnings statement from
10 SAPP Restaurant Enterprises. Do you see that?

11 A. I do see it.

12 Q. And it's in the name of Richard
13 H. Horton?

14 A. Yes.

15 Q. All right. Is it your understanding
16 that SAPP Restaurant Enterprises is the parent
17 company for Popeyes?

18 A. It makes sense.

19 Q. All right. And this is an earnings
20 statement from work that you did between
21 September 26th, 2004 and October 9th, 2004,
22 correct?

23 A. Correct.

24 Q. And the net pay that you earned from

1 Popeyes in that period is \$256.76, correct?

2 A. That's correct.

3 Q. And did Popeyes hand you a physical
4 paycheck?

5 A. Well, this was 2004, so, yes, I believe
6 they were still doing physical checks.

7 Q. And did you deposit that check into
8 your account?

9 A. I'm not sure. This -- this check was
10 on -- what date was it?

11 Q. The check date is October 14th.

12 A. Oh. So I should be able to
13 cross-reference it and see. I don't see an
14 October 14th deposit on here.

15 Q. You'd agree with me there's no
16 indication that this check was deposited into this
17 account, correct?

18 A. Not the whole check. It could have
19 been -- part of the check could have been
20 deposited afterwards. I see an October 25th.

21 Q. Where do you see an October 25th?

22 A. October 20th, was that a -- debits,
23 credits. At the bottom, three up from the bottom.
24 It says credits, \$1,007.

1 Q. I'm sorry. I don't see where you are.

2 A. Right above the Exhibit, see right
3 here?

4 Q. So you're talking about the credit for
5 \$1,000?

6 A. Yeah. So --

7 Q. So you think that might have been
8 partly the check?

9 A. I don't want to speculate. Sorry.

10 Q. Well, my question would be, where did
11 the other \$750 come from?

12 A. It could have come from various
13 different, but I'm not exactly sure where a check
14 came from over 20 years ago. I'm sorry.

15 Q. When you paid your landlord, did you
16 write him a check or did you pay him in cash?

17 A. When I paid my landlord, we would kind
18 of come together and pay the young man in cash.

19 Q. So would you pull the cash that you
20 needed out of this Telhio account?

21 A. I assume that I would.

22 Q. You assume that you would, but you
23 don't know?

24 A. No, I can't -- I can't speculate. You

1 know, it was, you know, it was -- this was over
2 20 years ago.

3 Q. Okay. And as you sit here today, you
4 have no explanation for the amounts of cash that
5 are being deposited into this account; is that
6 correct?

7 MS. MARTINEZ: Objection. Form.

8 A. I know that -- I know that I didn't
9 commit this crime against these people. I'm not
10 sure what this has --

11 Q. Mr. Horton --

12 A. -- to do with any of that stuff.

13 Q. -- I didn't ask you about the crime. I
14 asked about the money that was being put into your
15 account. Where is it coming from, do you know?

16 A. It would be impossible for me to
17 speculate other than the obvious check stubs.

18 Q. But who would have been issuing you
19 check stubs?

20 A. It looks like SAPP restaurants.

21 Q. All right. How often did you get paid
22 by Popeyes?

23 A. I can't -- I can't recall.

24 Q. And you got paid, for this two-week

1 period, \$256, roughly?

2 A. Every two weeks.

3 Q. Every two weeks. Okay. So that's,
4 say, roughly \$500 a month?

5 A. Roughly, if I -- it all depends. This
6 is just one snapshot of a period in time.

7 Q. Okay. So is it your testimony that you
8 were working enough hours at Popeyes to account
9 for all of the money being deposited into this
10 account?

11 MS. MARTINEZ: Objection. Form.

12 You can answer.

13 A. No, the math wouldn't add up.

14 Q. Let me ask you this: Is it your habit
15 to walk around with large sums of money, cash?

16 A. At this age, at this point in my life?

17 Q. At this point in life, yeah.

18 A. When I was making obvious terrible
19 financial decisions and I didn't understand the
20 power of credit and the power of having a credit
21 union behind you, yeah, I -- it was safe to say
22 that I was comfortable walking around with cash.

23 Q. So, for example, on October 12th of
24 2004, there was a withdrawal of \$800. Do you see

1 that?

2 A. October -- what date was it? I'm
3 sorry.

4 Q. October 12th. It's two above the
5 dotted line.

6 A. Yes, I see it.

7 Q. So why would you have pulled \$800 out
8 of the account?

9 A. I -- I do not recall. Sorry.

10 Q. And then two weeks later, on
11 October 25th, you pulled a thousand dollars out.
12 Is that the sort of money that you used as
13 walk-around money then?

14 A. At this point in my life, I'm not sure
15 what I was thinking. It obviously wasn't too
16 smart.

17 Q. When you started dating Janette, did
18 you tell her about your criminal history?

19 A. That's a good question. I do not
20 recall.

21 Q. Did you tell her about your prior drug
22 use?

23 A. That's another good question. I do not
24 recall. Was I honest and straightforward with

1 Janette and told her everything? I do not recall.
2 I don't think that I came in knowing that she
3 would be, you know, the woman for me and that I
4 should disclose everything to her, you know. I
5 didn't know she was a sweetheart the first day I
6 met her. I just thought she was pretty.

7 Q. Is it your position that you had
8 changed your life and your behavior from what it
9 was before West Virginia to what it was
10 afterwards?

11 A. Yes.

12 Q. In what respects?

13 A. Well, there's a lot of different angles
14 and respects. It's just not living the street
15 life anymore. Just trying to be more mature, make
16 better decisions, just really --

17 Q. What did --

18 A. -- trying to be there for -- oh.

19 Excuse me.

20 Q. No, no. I didn't mean to interrupt.
21 You go ahead.

22 A. Just trying to make better overall
23 decisions. I had quite a rough upbringing. As
24 you can see when you look through the documents, I

1 made some mistakes. But in 2004, I believe I was
2 27, just trying to -- trying to get it -- trying
3 to get it right.

4 Q. What do you mean by the street life?

5 A. Being around drug dealers, dealing
6 drugs, using drugs. Just trying to -- just trying
7 to change my atmosphere.

8 Q. Did you use -- did you use -- I'm
9 sorry. During this period in 2004, did you use
10 drugs at all?

11 A. No. I left all that life behind me.

12 Q. And when I say drugs, I'm including
13 marijuana.

14 A. Which is legal now. No, I believe the
15 whole time I was on parole, I never had a dirty
16 urine. The whole time I was in prison, I never
17 had a dirty urine. I'm quite fond of those facts.

18 - - - - -

19 Thereupon, Exhibit 17 is marked for
20 purposes of identification.

21 - - - - -

22 Q. I'm going to hand you what I have
23 marked as Exhibit 17. I will represent for the
24 record that this is a criminal complaint against

1 Richard Horton, dated June 22nd, 2004, for
2 possessing a controlled substance,
3 to wit: Marijuana, a schedule I controlled
4 substance, located in two plastic bags in right
5 front pants pocket, less than 100 grams in amount.

6 Do you recall being arrested by the
7 police in June of 2004 for marijuana possession?

8 A. No, I don't recall.

9 Q. It says the offense location was
10 3rd Street and St. Clair Avenue. Do you know
11 where that is?

12 A. 3rd Street. Yes.

13 Q. Where is that?

14 A. That is in the Milo-Grogan
15 neighborhood. It's northeast of here.

16 Q. The same neighborhood that you were
17 living in, correct?

18 A. That's correct.

19 Q. And could you take a look at the time
20 of the offense? It's down here.

21 A. 31:40 [sic]?

22 Q. 3:40 a.m. Do you see that?

23 A. I see it.

24 Q. All right. Do you have any explanation

1 for why you were out at 3rd Street and St. Clair
2 Avenue at 3:40 in the morning?

3 A. In looking over this document, and
4 you've shown me a lot of documents, if I was -- I
5 was probably high.

6 Q. You were high?

7 A. Probably.

8 Q. And that's why you don't remember this
9 event happening?

10 A. That along with a couple other
11 explanations, but, yeah.

12 Q. What do you mean by that?

13 A. Well, this was in 2004.

14 Q. Correct.

15 A. And like I -- I continue -- I continue
16 to state, you know, I've been through a lot, a lot
17 of trauma, a lot of PTSD, I don't -- I don't
18 remember every -- everything that you're asking me
19 about. I'm doing my best to answer all the
20 questions as truthful as possible, but, you know,
21 I've been through a whole lot. You know, this
22 complaint right here, I mean, weed is legal now,
23 so...

24 Q. Was weed legal in 2004?

1 MS. MARTINEZ: Objection. Foundation.

2 You can answer.

3 A. I don't think so.

4 Q. You were continuing to use drugs during
5 2004?

6 MS. MARTINEZ: Objection. Form.

7 You can answer.

8 A. I don't recall that.

9 Q. Well, you just said that you might not
10 recall this because you were high.

11 A. I must have been. I was up at 3 in the
12 morning. I never had a dirty urine, so it doesn't
13 seem like -- if and when this happened I was on
14 parole from West Virginia, and I don't remember
15 being -- getting in trouble for it, so...

16 Q. How often did you have to do urine
17 screens?

18 A. Every -- every time I saw my parole
19 officer.

20 Q. How often was that?

21 A. That was twice a month sometimes. It
22 starts off very intensive in the beginning. So if
23 I got out in April, he would probably -- I would
24 probably have to see her once a week. And then

1 six months later, it might go down to once every
2 two weeks. And, you know, if you continue to stay
3 out of trouble, work your job, not have any dirty
4 urines, it would go to maybe once a month, you
5 know.

6 Q. Did you tell your parole officer about
7 this arrest?

8 A. I don't recall.

9 Q. Did you tell Janette about this arrest?

10 A. I don't recall.

11 Q. Do you recall anything about the
12 circumstances of this arrest?

13 A. No, sir, I do not. This was -- this
14 was a long time ago. Where does it say on here I
15 was arrested?

16 Q. Just below the middle of the page.
17 There's a check mark for arrest warrant.

18 I assume, by the way, that if a police
19 officer -- if you know -- if a police officer
20 stops you and finds you in possession of
21 marijuana, I assume that they arrest you, rather
22 than letting you go. Is that your understanding?

23 A. See, your different -- your experience
24 in dealing with police officers and my experience

1 in dealing with police officers is two separate
2 stories.

3 Q. Okay.

4 A. Even back then when marijuana was
5 illegal, you know, something like this could have
6 probably been overlooked because, you know, maybe
7 at the time they were giving me a warning, you
8 know, maybe at the time when they -- when they
9 stopped someone with this small amount of
10 marijuana on them, there was a more serious crime
11 happening and they had to go pursue a real
12 dangerous criminal, you know.

13 Q. Is this a small amount of marijuana?

14 A. It looks like it says less than
15 100 grams, so...

16 Q. Would you consider that a small amount?

17 A. Yeah. I don't even think this was a
18 felony back then.

19 Q. But clearly they didn't just let you
20 go. They wrote a criminal complaint and issued an
21 arrest warrant.

22 A. Clearly.

23 Q. Right. So they didn't just let it go.

24 A. No, no. I was just explaining my

1 experience and your experience, because, like, I
2 don't remember my parole officer violating my
3 parole and sending me back to prison for this, so
4 it doesn't really seem like it was that serious.

5 Q. Right. But my question wasn't whether
6 you were revoked, it was whether you fulfilled
7 your obligation to report it to him or her.

8 A. Oh. I can't recall.

9 MS. MARTINEZ: Are we at a good time
10 for a quick -- for a break, Counsel?

11 MR. EPSTEIN: Sure.

12 THE VIDEOGRAPHER: We are off the
13 record. The time is 2:56.

14 (A short recess is taken.)

15 THE VIDEOGRAPHER: This marks the
16 beginning of Media No. 5. We are back on the
17 record. The time is 3:06.

18 BY MR. EPSTEIN:

19 Q. Mr. Horton, is it fair to say that
20 going back to the period of, say, the 1990s, you
21 did not have a very good driving record?

22 MS. MARTINEZ: Objection. Form.
23 You can answer.

24 A. Yes, it is -- it is fair to say that my

1 driving record was less than stellar, starting in
2 the '90s.

3 Q. Tell me about that.

4 A. Well, I was young and dumb. I didn't
5 have a lot of respect for traffic laws and
6 restraints. And it actually took me a long time
7 and a lot of people to -- to realize that, you
8 know, the rules are in place for a reason.

9 It took me a very long time to respect
10 the fact that the law in Ohio is that every driver
11 should have insurance. I can remember just
12 thinking, you know, I didn't -- it felt like a
13 scam that you would just be paying your insurance
14 every month and what if you never get into an
15 accident, you know.

16 Q. Speaking of insurance, was there a time
17 where you owed \$4,000 to an insurance company?

18 A. Yes.

19 Q. What was that debt for?

20 A. That debt was for a car accident that I
21 had gotten into in high school, a very, very long
22 time ago.

23 Q. And how did that get resolved, that
24 debt?

1 A. You know what, I don't -- I don't
2 recall.

3 Q. So at some point in time, I think we
4 talked about this already, you purchased a car
5 from Tracy McClanahan; is that correct?

6 MS. MARTINEZ: Object --

7 A. I purchased --

8 MS. MARTINEZ: Objection. Form.

9 You can answer.

10 THE WITNESS: Sorry about that.

11 A. I purchased a car, but I'm not exactly
12 sure who I bought the car from. I don't know if
13 it was Tracy McClanahan or Linda McClanahan, but I
14 did -- I do remember.

15 Q. But you purchased the car from somebody
16 in the McClanahan family?

17 A. Yes, sir.

18 Q. And you took the car to Rick McClanahan
19 to do some work on it, correct?

20 MS. MARTINEZ: Objection. Form.

21 Restates previous testimony.

22 You can answer.

23 A. I think I already answered this
24 question, but, yes, I believe one of the

1 stipulations was he was supposed to fix something
2 on the car.

3 Q. Now, before you took the car to
4 Mr. McClanahan for him to work on it, did you
5 already know who he was?

6 MS. MARTINEZ: Same objection.

7 You can answer.

8 A. Yes, I knew who he was.

9 Q. You had known him for some time?

10 A. Yes, I did.

11 Q. And in the process of doing that car
12 transaction, did you go to his house?

13 A. I do not recall where he fixed the car,
14 was it -- I don't know, I can't remember, was it
15 at a garage, was it at his house, was it at my
16 house.

17 Q. So you don't remember if you dropped
18 the car off at his house?

19 A. I don't remember.

20 Q. What happened to that car?

21 A. As we spoke about earlier, I had a
22 very -- what's the word that I could use to
23 describe it -- I had a very colorful driving
24 record, so from what I can remember, the car got

1 impounded shortly after I bought the car. I
2 didn't -- yeah, I was -- I was pretty young and
3 pretty reckless at that point in my life.

4 Q. In 2004, after you were released from
5 prison in West Virginia and you came to Ohio, did
6 you have a car?

7 A. I -- I did purchase a car.

8 Q. Where did you purchase the car?

9 A. In Columbus, Ohio.

10 Q. I mean --

11 A. From a family friend.

12 Q. -- do you remember who you bought it
13 from? Did you buy it from a dealer or from a
14 private seller?

15 A. I bought it from a family friend,
16 private seller.

17 Q. How much did you pay?

18 A. That's a good question. I believe I
19 paid around \$1,000 for it. It was -- it was not
20 the most -- not the nicest car.

21 Q. What kind of car was it?

22 A. It was a -- it was a green Cadillac.
23 It needed a lot of work on it.

24 Q. Did you have a valid driver's license

1 in 2004?

2 A. No, I did not.

3 Q. Did you use that car to drive around in
4 2004 even though you didn't have a valid driver's
5 license?

6 A. Yes. Yes, I -- I drove it on
7 occasions.

8 Q. What kinds of occasions would you use
9 it for?

10 A. I would -- I would drive it when it was
11 functioning. I might drive it -- I might take
12 Janette out to eat in it. It was an older model
13 car, so it was pretty fun riding around in it when
14 it was in running condition.

15 Q. So I take it there were times when it
16 was not in running condition?

17 A. Yeah. Yes, that's correct. It was
18 a -- it was a -- I had quite a few problems out of
19 that car. I can remember something about the heat
20 and the steering, the steering and -- it was -- it
21 was -- I actually remember getting rid of the car
22 because stuff just kept happening to it.

23 Q. Well, did you put money into it to try
24 to fix it?

1 A. I tried, but I didn't -- I didn't have
2 a lot of patience back then.

3 Q. So there were times when it was
4 inoperable and then it would become operable and
5 then inoperable again; is that correct?

6 A. Unfortunately, yes.

7 Q. Before you found out that you were a
8 suspect in the Loew Street robbery, were you aware
9 that the robbery had taken place?

10 A. That's a good question. No, I was -- I
11 was not aware.

12 Q. You didn't hear anything around the
13 neighborhood about Rick McClanahan getting shot?

14 A. I don't -- I don't recall. No. I
15 don't recall hearing anything about
16 Mr. McClanahan.

17 Q. How did you find out about the Loew
18 Street robbery?

19 A. The way I found out about the Loew
20 Street robbery was I was at a -- I was at a child
21 custody hearing for my daughter. Her mother had
22 got into some -- some type of problem, some type
23 of issue. And I was actually there because the
24 children's protective services had taken custody

1 of my daughter, so I was in there actually just to
2 try to, you know, give support to her. And if
3 need be, I would have, you know, took custody of
4 my child on the spot.

5 Q. Did you --

6 A. So --

7 Q. Let me interrupt you for a second. Did
8 you file anything at that time requesting custody
9 of your daughter?

10 A. I don't recall. I don't recall. But,
11 like I was saying, so I show up to the court
12 proceedings and, you know, I'm telling them who I
13 am and why I'm here. And one of the -- one of the
14 attorneys, he comes and pulls me to the side and
15 he says, you know, we -- we can't grant you
16 custody of your daughter because you have a
17 warrant out for your arrest.

18 And that's how I found out that the
19 warrant -- that I had a warrant out for my arrest.
20 I believe at the time it was just a warrant for
21 robbery. But anyway, to confirm these
22 allegations, I have an aunt who used to be in the
23 Columbus police division.

24 Q. Who is that?

1 A. Her name is Barbara Horton Alomar.

2 Q. What position did she have in the
3 police department?

4 A. That was a long time ago. I can't
5 recall. But she -- she wasn't a cop anymore. But
6 I knew that she could help me with the situation.
7 This is before the internet. This is before
8 Google.

9 So I called her and told her, you know,
10 what had happened, because I was completely caught
11 off guard, completely shocked. You know, somebody
12 says you got a warrant out for a robbery and you
13 know you didn't rob anybody, this is, you know,
14 kind of hysterical.

15 And I asked her what is -- was it true.
16 And she -- well, she did whatever she had to do
17 and called whoever she had. She said it was true.
18 So that's how I found out about the robbery.

19 Q. What did you do after she confirmed
20 there was a warrant?

21 A. Well, since I -- I knew I didn't commit
22 the crime, I didn't take it as seriously. So what
23 I did was I called -- I got a copy of the arrest
24 warrant and I called the detective, the name that

1 was on the arrest warrant, thinking, you know,
2 this was a minor issue, maybe we can, you know,
3 work this out. And her name was Detective Brenda
4 Walker.

5 Well, she wasn't exactly happy to hear
6 from me and happy to hear that -- you know, she
7 didn't respect the fact I was taking the situation
8 so lightly. And so she -- I remember she advised
9 me to -- that I had -- since I had a warrant, that
10 I needed to turn myself in.

11 And the conversation didn't go so well.
12 She was -- she was -- she was kind of mean. And
13 I -- but I tried to assure her that, you know,
14 once I obtain counsel, I would turn myself in,
15 because, you know, I didn't do it. I had a lot of
16 faith, at this point in my life I still had a lot
17 of faith in the justice system, I had a lot of
18 faith in the City of Columbus that, you know, this
19 was just a big misunderstanding.

20 Q. How do you know that she was upset you
21 weren't taking it seriously?

22 A. Because she was yelling at me.

23 Q. She was yelling at you?

24 A. And she told me that SWAT, SWAT was

1 looking for me or something, which I didn't, you
2 know, I didn't really take it as -- because I
3 didn't, you know, I didn't know the particulars or
4 I didn't know the particular details around -- I
5 didn't know that a guy had been robbed and shot, I
6 didn't know all of this at this time. All I knew
7 there was a warrant out for my arrest and, you
8 know, let's just, let's take care of this.

9 Q. Well, you knew more than that, though,
10 right?

11 MS. MARTINEZ: Objection. Form.

12 - - - - -

13 Thereupon, Exhibit 18 is marked for
14 purposes of identification.

15 - - - - -

16 Q. I'm going to hand you what's been
17 marked as Exhibit 18. That is the criminal
18 complaint, file stamped December 15th, 2004, State
19 of Ohio versus Richard Horton. Is this the
20 document that your aunt got for you?

21 A. I don't recall the exact document.

22 Q. Okay. This document has Brenda
23 Walker's name in it, correct?

24 A. I see it right here.

1 Q. Right. And you testified that you
2 found out about Brenda Walker from a document --

3 A. Yes.

4 Q. -- correct?

5 A. Yes.

6 Q. Okay. Are you aware of any other
7 document that was available to you at the time and
8 had Brenda Walker's name on it?

9 MS. MARTINEZ: Objection. Foundation.
10 You can answer.

11 A. I do not recall. I see what you're
12 saying, it says it right here in it, but you're
13 asking me about something from 20 years ago.

14 Q. Okay. The copy you have is a little
15 difficult to read, so you're welcome to look at
16 mine. There's a narrative that describes the
17 crime, correct?

18 A. That's correct.

19 Q. And it identifies the victim as Rick
20 McClanahan, correct?

21 A. That's correct.

22 Q. And it also has the date of the
23 offense?

24 A. That's correct.

1 Q. All right. So when you talked to
2 Detective Walker, you did have some information
3 about the underlying facts of the crime, correct?

4 A. I'm not sure exactly what I had, but I
5 just knew I didn't do it whatever it was.

6 Q. Well, when did you find out that Rick
7 McClanahan was the victim?

8 A. That took a long time because
9 his -- once I looked at the name, I didn't really
10 know him as Richard McClanahan, I kind of knew him
11 as Rick, so it took a while for me to actually
12 figure out who it was.

13 Q. At what point did you figure out that
14 the person you knew as Rick and the complaining
15 victim, Richard McClanahan, were the same people?

16 A. Like I said, it took a while for me to
17 put two and two together, so I'm not -- I don't
18 recall exactly how long it took. It took a while,
19 though.

20 Q. How did you put it together?

21 A. I believe I was -- I was asking a lot
22 of people in the neighborhood, you know, who is
23 this person. You know, I was contacting
24 re- -- various people. I was -- I was completely

1 panicked, so I was -- I was asking everybody. I
2 actually -- yeah.

3 Q. Back to your conversation with Brenda
4 Walker. What did you tell her?

5 A. I told her that I didn't commit this
6 crime. She told me that, you know, I needed to
7 turn myself in. And I told her -- you know, she
8 was -- she was quite irate with me, but I told
9 her, you know, I have no problem turning myself
10 in. As soon as I obtain legal counsel, I'll do
11 just that.

12 Q. Did you tell her that you couldn't have
13 committed the crime because you were with Janette
14 at the time?

15 A. She -- she didn't ask a lot of
16 questions. She kind of did a lot of the talking.
17 She didn't really ask.

18 Q. Well, you could have volunteered that,
19 though, right?

20 A. I -- I -- I could have. I don't think
21 that I knew exactly where I was on October 9th of
22 2004. I know I had a steady routine of stuff that
23 I liked to do. And this seemed like this was on a
24 Saturday for some reason and, you know, I'm pretty

1 sure that according to my routine that Janette and
2 I were courting at the time, so, you know. But I
3 really, really -- once I observed her tone, there
4 really wasn't a lot of back and forth with
5 Lieutenant -- Detective Brenda Walker.

6 Q. What was the routine that you had at
7 the time?

8 A. Well, I could remember trying to figure
9 out, you know, exactly where I was at this time.
10 I put a lot of thought into it. And all I could
11 come up with was that, you know, I would work
12 during the week, and on the weekends I would kind
13 of sleep in, hang out with Janette, do the stuff
14 she liked to do kind of like shopping, maybe the
15 movies, spend time with my kids during the week.
16 And I would really try to spend -- oh, excuse
17 me -- time with Janette, you know.

18 Q. Did you spend every weekend with
19 Janette at that time?

20 A. I'm pretty sure that I did. Janette
21 is -- you don't know Janette, you probably haven't
22 met her yet, but she was pretty demanding at this
23 stage, this early stage. She is not as demanding
24 anymore, but...

1 Q. Okay. So you're pretty sure is what
2 you said?

3 A. Yeah, I'm pretty sure. But it's
4 impossible for me to remember. This is from
5 20 years ago.

6 Q. Sure. Would your memory have been
7 fresher at your 2006 trial?

8 A. I would like to think so.

9 Q. Did you get a lawyer?

10 A. I did. And I turned myself in.

11 Q. Who was the lawyer?

12 A. Oh, I can't remember her name. I'm
13 sorry.

14 Q. Were you released on bail?

15 A. Yes.

16 - - - - -

17 Thereupon, Exhibit 19 is marked for
18 purposes of identification.

19 - - - - -

20 Q. I'll hand you what I've marked as
21 Exhibit 19. This is the court arrangement sheet
22 for Richard Horton, dated December 28th, 2004. It
23 shows a bond of \$25,000, an appearance bond. Do
24 you see that?

1 A. I see it.

2 Q. Did you post that bond?

3 A. Yes. Janette posted this bond for me.

4 Q. And if you look in the description, it
5 has both Rick McClanahan's name and Rhonda
6 Curry's. Well, it actually doesn't have
7 McClanahan's first name, but it has McClanahan and
8 Rhonda Curry. Do you see that?

9 MS. MARTINEZ: Just read that section.

10 Q. Oh. Yes, it does. Victim, Richard
11 McClanahan, Jr. In the center of the document.
12 So this document would have plainly told you the
13 names of the victims, correct?

14 A. Yes, it has the names on here.

15 Q. Would you have recognized Rhonda
16 Curry's name?

17 A. No.

18 Q. What did you --

19 A. No, I did not.

20 Q. What did you know her as?

21 A. I -- I -- I do not recall her
22 particular nickname.

23 Q. Okay. And when the judge released you,
24 there were conditions imposed, correct?

1 A. Yes.

2 Q. What were those conditions?

3 A. It looks like according -- it looks
4 like those conditions are written on this paper.
5 It says stay away from Rhonda Curry and Richard
6 McClanahan, Jr. at the top. And no further acts
7 of violence.

8 Q. Okay. Did you understand that those
9 were the conditions of your release?

10 A. Yes. But I, you know, I just wanted to
11 get out of -- get out of jail. After all, I
12 didn't commit this crime. I just wanted to go
13 home.

14 Q. Did you abide by those conditions?

15 A. No, not one -- not the one where it
16 says stay away from Rhonda Curry and Richard
17 McClanahan.

18 Q. You did not abide by that one?

19 A. No.

20 Q. Okay. Tell me what happened.

21 A. Well, as I believe I testified during
22 trial, it's a small neighborhood, so I actually
23 saw Mr. McClanahan on two separate occasions.

24 Q. Okay. Let's talk about the first

1 occasion first.

2 A. The first occasion in which I saw
3 Mr. McClanahan, I had -- I believe I flagged him
4 down, you know. I -- he was going one direction,
5 I was going in the other. I believe I flagged him
6 down just to, you know, try to speak with him.

7 So me and him, we -- he stopped his
8 car. I stopped my car. We talked for a minute.
9 I informed him that I had a place just down the
10 street. And I asked him, you know -- you know, I
11 believe it was raining, so I asked him would he
12 like to get out of the rain and come talk to me.

13 Mr. McClanahan, who wasn't in fear for
14 his life, came to the house on Reynolds Avenue
15 under his own free will and we talked about the
16 case. I distinctly remember that he was on a cane
17 at this time. So some of the things that we
18 talked about was him having multiple surgeries.

19 You know, he was able to look me in the
20 eye and assured me at the time, you know, that I
21 wasn't the guy who had done this -- this violent,
22 heinous thing to him. And we talked for a while.

23 I remember I had a dog, and the dog
24 kept trying to jump on him. I had, like, a puppy

1 and she tried to keep jumping, and I remember, you
2 know, shushing the dog away because he was -- he
3 was saying that he just healed up from one of the
4 surgeries. And, you know, I felt terrible for
5 what had happened to him, but I'm not the one who
6 hurt him like this.

7 Q. Okay. Let's break this down into
8 smaller pieces. You were driving in your car,
9 correct?

10 A. Correct.

11 Q. So it must have been one of those
12 periods where the car was operable?

13 A. It must have been.

14 Q. Were you driving in the car with
15 anybody else?

16 A. I -- no. I don't think so.

17 Q. All right. And you saw Mr. McClanahan
18 driving in his vehicle in the opposite direction?

19 A. Yes, sir.

20 Q. So you recognized Mr. McClanahan's
21 vehicle?

22 A. I recognized his face, not his vehicle.

23 Q. Okay. Were you stopped at the
24 intersection?

1 A. I believe I was exiting a gas station.
2 He was coming into a gas station.

3 Q. So what did you do? Did you get out of
4 your car?

5 A. I believe -- I believe that I said -- I
6 got out of the car, I kind of flagged him down a
7 little bit, hey, wait a minute, stop, you know.

8 Q. Before he was able to get into the gas
9 station?

10 A. I'm not sure who was coming or going.

11 Q. So it might have been that he was
12 leaving the gas station and you were pulling in?

13 A. It's entirely possible.

14 Q. Okay. Was anyone with him?

15 A. I don't remember anybody being with
16 him.

17 Q. Okay. So you flagged him down. And
18 then did he get out of the car or did you talk to
19 him through the window?

20 A. I believe I talked to him through the
21 window because I don't -- like I said before, he
22 didn't actually get out of the car until he came
23 into the house. I didn't actually get to see him
24 on a cane until he came to the house.

1 Q. All right. When you're standing
2 outside the car talking to him, what did you say?

3 A. I can't remember exactly what I said,
4 but I know that at some point I said, you know,
5 hey, man, I didn't commit this crime against you.
6 Can we go somewhere and talk? It's raining out
7 here.

8 Q. And what did he say?

9 A. He said, cool, let's do it.

10 Q. So you went to where?

11 A. The house on Reynolds Avenue.

12 Q. Was anyone else in the house on
13 Reynolds Avenue when the two of you arrived?

14 A. Not the -- not on the first occasion,
15 no.

16 Q. We'll get to the second one in a
17 minute.

18 All right. So you went into the house
19 on the first occasion, the two of you?

20 A. Yes.

21 Q. And where in the house did you go?

22 A. It was in the kitchen.

23 Q. All right. Tell me about the
24 conversation in the kitchen.

1 A. It seemed, much to my surprise, it went
2 pretty smooth. Like I said, if the shoe was on
3 the other foot, I would have been kind of leery to
4 be around the person who I thought shot me, but
5 Mr. McClanahan wasn't nervous, he wasn't agitated,
6 he was actually very calm. So the conversation, I
7 can remember it went pretty smooth. And I
8 actually, upon him leaving under his own free
9 will, I thought the whole ordeal would be over
10 with soon.

11 Q. Did Mr. McClanahan tell you, I know you
12 are not the shooter?

13 A. Yes.

14 Q. Did he tell you who the shooter was?

15 A. No, but I -- honestly, I didn't ask
16 him.

17 Q. Did he tell you why, if he knew you
18 weren't the shooter, he told the police you were
19 the shooter?

20 A. I don't recall.

21 MS. MARTINEZ: A belated form objection
22 to that question.

23 Q. How did that conversation conclude?

24 A. As I said, it seemed like the

1 conversation concluded on good terms. I thought
2 the whole ordeal would be over with in a matter of
3 days.

4 Q. Was there any discussion of money?

5 A. No.

6 Q. Then you said there was a second
7 encounter. How long after the first encounter was
8 the second?

9 A. I can't -- I can't recall. It
10 wasn't -- I can't recall. It wasn't -- yeah, I
11 can't recall.

12 Q. Where was the second?

13 A. The second encounter where I saw
14 Mr. McClanahan, it happened down the street from
15 the actual Reynolds address. I believe he had
16 some friends that were -- that had, like, a body
17 shop. And so basically the same scenario, I
18 walked down there trying --

19 Q. Well, what -- I'm sorry. What prompted
20 you to walk down there?

21 A. I had seen him from a distance. Like I
22 said, he was a pretty tall guy, very distinctive,
23 and I jumped at the opportunity to speak with this
24 gentleman, you know.

1 And I was, you know, like I said,
2 trying not to -- I tried to talk to him in a calm
3 manner, you know, I didn't want it to be a yelling
4 match. And we talked. And he -- I talked. You
5 know, I asked him, you know, you know, it doesn't
6 seem like you did what you said you was going to
7 do as far as, you know, talking to the detectives
8 and getting, you know, these charges dropped.

9 The conversation went pretty cool
10 again. I gave -- that's when I actually gave him
11 my phone number, and said, listen, man, you can
12 call me any time and we can take care of this.

13 - - - - -

14 Thereupon, Exhibit 20 is marked for
15 purposes of identification.

16 - - - - -

17 Q. I'll hand you what we've marked as
18 Exhibit 20. Is that a copy of the piece of
19 cardboard you wrote your name and phone number on?

20 A. I mean, this is a pretty bad copy, man.

21 Q. It is a pretty bad --

22 A. Come on, man.

23 Q. -- copy.

24 A. You -- come on, man.

1 Q. All right. I'm not -- it's not a
2 trick. I just want to see if you can confirm it.
3 Let me see. Is that one any better? All right.
4 We'll set that aside.

5 Let me ask you something different.
6 You saw him at the auto shop. Were you with
7 anyone when that happened?

8 A. When -- when I saw him at the auto
9 shop, I was not with anyone. When McClanahan came
10 back to my residence under his own free will,
11 there was someone in the house.

12 Q. And we'll get to that. But at the
13 point that you first approached him, you were
14 alone, correct?

15 A. Correct.

16 Q. Was he with other people?

17 A. I do not recall.

18 Q. Okay. And you said, hey, you didn't do
19 what you said you were going to do, correct?

20 A. Something along those lines, correct.

21 Q. And what did he say?

22 A. He kept assuring me that he was going
23 to get all the charges dropped. He kept
24 assuring -- I believe the second conversation, one

1 of the things that went different was I was, you
2 know, telling him how much money I was spending on
3 a lawyer, you know, to -- to defend me. And he
4 assured me that, you know, I didn't need to keep
5 paying a lawyer, he was going to take this piece
6 of paper and call me when he needed me, and we can
7 hopefully put this past us.

8 Q. Now, did that conversation about the
9 lawyer and the money happen while you were at the
10 auto shop or later when you got back to the house?

11 A. There was no conversation about money.

12 Q. Well, you just mentioned money in terms
13 of paying -- that you were paying your lawyer.
14 I'm asking did you make that statement when you
15 were still at the auto body shop?

16 A. No. I believe -- I don't believe we
17 did a lot of talking at the barber -- at the
18 alley -- at the body shop.

19 Q. Why did you go back to the house? Why
20 not just have the conversation where you were?

21 A. I do not recall.

22 Q. Okay. So you go back to the house.
23 And when you're arriving at the house, it's just
24 you and McClanahan, right? He didn't bring

1 anybody with him?

2 A. He didn't bring anybody with him.

3 Q. Was there somebody at home in your
4 house?

5 A. Yes.

6 Q. Who was that?

7 A. That gentleman's name would be LaKeon
8 Horton.

9 Q. Okay. Where was LaKeon in the house
10 when you came in?

11 A. I believe he was upstairs.

12 Q. Did LaKeon come downstairs to talk to
13 you guys at any point?

14 A. I'm not sure.

15 Q. Okay. So tell me about the
16 conversation at the house.

17 A. It was a pretty -- like I said, despite
18 the fact that this gentleman had thought that I
19 had done all these bad things to him, the
20 conversation went pretty well.

21 We talked. You know, once again, he
22 assured me that, you know, he knew it wasn't me
23 once he was able to look me in the eye. He
24 assured me, you know, that I didn't need to keep

1 paying a lawyer. It went -- once again, I was
2 wrong, but I assumed the conversation went pretty
3 well.

4 Q. Mr. McClanahan testified at trial that
5 in that conversation you tried to bribe him to
6 dismiss his claim against you. Did you remember
7 him testifying to that?

8 A. I do not recall.

9 Q. You do not remember him testifying that
10 you offered him money?

11 A. No, I don't. I don't remember that.
12 That was a while ago.

13 Q. Did you offer him money?

14 A. No, I did not offer Mr. McClanahan
15 money.

16 Q. Did Mr. McClanahan ask you for money in
17 return for him changing his story?

18 A. No. Mr. McClanahan didn't -- didn't
19 ask me for anything except patience.

20 Q. And just to be clear, LaKeon was
21 present possibly for the second conversation, but
22 when you ran into him the first time in the two
23 cars, LaKeon was not there?

24 A. He was not there, no.

1 Q. Okay. And then, obviously,
2 Mr. McClanahan did not change his testimony,
3 correct?

4 MS. MARTINEZ: Objection. Foundation.

5 A. Mr. McClanahan did not change his
6 story.

7 Q. He testified at trial that you were the
8 person who broke into the house and shot him,
9 correct?

10 A. Yes. Yes, I -- yes, he did.

11 Q. And Rhonda Curry testified that you
12 were the person who broke in and shot Rick,
13 correct?

14 A. Yes.

15 Q. As you were listening to this testimony
16 at the trial, was it your belief that
17 Mr. McClanahan was mistaken or was it your belief
18 that Mr. McClanahan was lying?

19 A. Could you -- can you explain the
20 question?

21 Q. Mr. McClanahan is testifying that
22 Richard Horton shot me. I recognize Richard
23 Horton as the man who shot me.

24 If you're sitting there saying to

1 yourself, he's wrong, I didn't shoot him, he's
2 either -- he's either honestly mistaken, or he's
3 deliberately lying, he knows you're not the
4 person. Did you have a thought as to which of
5 those it was? Did you believe he was mistaken or
6 did you believe he was lying?

7 A. I -- I do not recall. I can't figure
8 out which way, even -- even if it was one of those
9 theories, I don't -- I didn't know what -- it was
10 all happening so fast, and I don't know -- I don't
11 know what his motive was.

12 Q. Well, you've now had quite a long time
13 to think about it. Have you formulated a theory
14 over the years as to whether he was mistaken or
15 whether he was lying?

16 MS. MARTINEZ: And I would say in
17 answering this, if you can answer it outside of
18 conversations with your attorneys, you can.

19 A. I believe it was police misconduct. I
20 don't believe McClanahan was malicious or -- I
21 don't -- I don't -- I don't have a theory for it.

22 Q. Okay. And do you know of any reason
23 why McClanahan would have a grudge against you?

24 MS. MARTINEZ: Objection. Foundation.

1 You can answer.

2 A. No, I do not.

3 Q. When you say it was police misconduct,
4 what do you mean?

5 A. I believe that the police framed me for
6 this crime. I believe something went terribly
7 wrong with the Columbus Police Department. That's
8 why I'm sitting here, you know...

9 Q. What's your understanding of how your
10 name first got raised in connection with this
11 robbery?

12 A. I'm not entirely sure how my name was
13 first brought up. I'm not entirely sure.

14 Q. Do you have any reason to believe that
15 Brenda Walker came up with your name and suggested
16 your name to McClanahan and Curry?

17 A. I'm not sure how to answer that
18 question.

19 Q. It's a yes or no question. Do you have
20 any basis to believe that she came up with the
21 name and told it to them?

22 A. I'm not sure how to answer that
23 question.

24 Q. So you have no idea who first suggested

1 your name as a suspect; is that correct?

2 A. That's correct. I wasn't -- I wasn't
3 there.

4 Q. Do you have any evidence -- strike
5 that.

6 Are you aware of any facts to suggest
7 that Brenda Walker was the first person to suggest
8 your name?

9 A. I don't want to violate attorney-client
10 privilege, so I'm not sure how to answer that
11 question.

12 Q. All right. Is it fair to say that any
13 facts that would implicate Brenda Walker as the
14 first person to raise your name, you're aware of
15 because your attorney told you?

16 A. Once again, I'm not sure how to answer
17 that question.

18 Q. Do you know of any facts implicating
19 Brenda Walker as the source of your name other
20 than things that were told to you by your
21 attorneys?

22 A. Not at this time, no.

23 Q. Before you saw Brenda Walker's name in
24 the paperwork and you called her, did you know

1 Brenda Walker?

2 A. No.

3 Q. Had you had any dealings with her?

4 A. No.

5 Q. Do you have any reason to believe that
6 she knew who you were?

7 A. No.

8 Q. Do you have any reason to believe she
9 had a grudge against you?

10 A. Yes.

11 Q. And what would that reason be?

12 A. Well, just the way she was talking to
13 me from our initial phone conversation, she wanted
14 me to turn myself in without seeking legal counsel
15 first, and I didn't think that was the best way to
16 go about it. She was yelling and not pleasant.

17 Q. Okay. But that communication with her
18 where she seemed to be angry, as you've testified,
19 happened after you had already been identified as
20 the suspect, correct?

21 A. Yes, that is correct.

22 Q. Right. So what facts are you aware of
23 that would suggest that she had a grudge against
24 you that would lead her to identify you as the

1 perpetrator?

2 MS. MARTINEZ: Outside of things you
3 might have learned from your attorneys.

4 THE WITNESS: Say it one more time.

5 MS. MARTINEZ: To the extent you can
6 answer that question outside of communications you
7 had with your attorneys.

8 MR. EPSTEIN: Facts communicated from
9 an attorney are not privileged.

10 BY MR. EPSTEIN:

11 Q. What facts are you aware of that would
12 suggest that Brenda Walker named you as the
13 suspect because she had a grudge against you?

14 A. I'm not an attorney, so I'm not sure
15 how to answer that question.

16 Q. Yes, you're perfectly aware of how to
17 answer that question, sir. You know what a grudge
18 is. You testified that you believe that she had a
19 grudge against you. What's the basis for that
20 belief?

21 MS. MARTINEZ: Objection. Form.
22 Argumentative.

23 You can answer.

24 A. Like I stated before, she was a bit

1 unpleasant on our first phone call conversation.

2 Q. But you have no facts that predate that
3 interaction, correct?

4 A. I'm not sure how to answer the
5 question.

6 Q. You are either aware of facts involving
7 Brenda Walker that occurred before that or you are
8 not. Are you aware of any?

9 A. I'm not sure how to answer that
10 question.

11 Q. I would try yes or no. You are aware
12 of facts or you are not aware of facts.

13 MS. MARTINEZ: Objection. Form.
14 Argumentative. Asked and answered.

15 You can answer.

16 Q. Are you aware of any facts about Brenda
17 Walker from before that conversation that would
18 suggest she had a grudge against you?

19 A. I'm not sure how to answer that
20 question.

21 Q. Let's talk about Sam Sias. Do you know
22 who that is?

23 A. I believe he was another detective on
24 the case.

1 Q. And do you believe he had a grudge
2 against you?

3 A. No, I've never spoken with Mr. -- is it
4 Sykes or Sias?

5 Q. Sias.

6 A. Sias. I've never spoken with this
7 gentleman.

8 Q. To your knowledge did he know who you
9 were before this case?

10 A. I have no knowledge of that.

11 Q. Do you have any knowledge of a reason
12 why he would have a grudge against you?

13 A. I do not. I've never spoken to the
14 man, never -- I don't know what he looks like. I
15 never met him before.

16 Q. Okay. You testified that you believe
17 Brenda Walker has a grudge against you. Other
18 than the fact that she seemed angry or rude on the
19 telephone, what facts do you know that suggest she
20 had a grudge against you?

21 MS. MARTINEZ: Objection. Asked and
22 answered.

23 You can answer.

24 MR. EPSTEIN: Asked but not answered.

1 A. I don't know how to answer that
2 question. I'm sorry, man.

3 Q. Why do you not know how to answer it?
4 What is confusing you about the question?

5 A. There's a lot. It's just -- I
6 don't -- I'm not sure how to answer the question,
7 so...

8 Q. Do you understand what I mean when I
9 say a grudge?

10 A. Yes.

11 Q. Do you understand what I mean when I
12 say facts?

13 A. Yes.

14 Q. Do you understand what I mean when I
15 say before your conversation with her on the
16 telephone?

17 A. Yes.

18 Q. What facts are you aware of that she
19 had a grudge against you before the conversation
20 on the telephone?

21 MS. MARTINEZ: Same objection.

22 You can answer.

23 A. I'm not sure how to answer that
24 question.

1 Q. Do you know of any facts?

2 A. I'm not sure how to answer that
3 question.

4 Q. Why are you unsure? Either you know of
5 facts or you don't.

6 A. Because you keep badgering me, asking
7 me the same question.

8 Q. But you haven't answered the question
9 and you're not explaining to me -- I'm happy to
10 rephrase it and clarify, but you're not telling me
11 what you don't understand about it. So what don't
12 you understand about the question?

13 A. I just don't understand how you want me
14 to answer the question.

15 Q. I want you to tell me what facts you
16 know about Brenda Walker having a grudge against
17 you.

18 A. I'm not a lawyer. I'm not an attorney,
19 so, you know, I just -- I'm not sure where to go
20 from here.

21 Q. All right. So other than what you've
22 said, you're not going to answer my question; is
23 that correct?

24 MS. MARTINEZ: Counsel, it's not that

1 he's not answering the question. He's answering
2 to the best of his ability. If there's a
3 different way to rephrase, or for him to clarify,
4 please --

5 MR. EPSTEIN: I've clarified. The
6 question is unambiguous. He's refusing to answer.

7 Q. Will you answer my question?

8 A. I've already answered the question to
9 the best of my ability.

10 Q. Is it your testimony that you do not
11 recall Mr. McClanahan testifying at trial that you
12 offered him a bribe to change his testimony?

13 A. Yes, I don't remember Mr. McClanahan
14 saying that. I don't remember anything about his
15 testimony. It was -- it was 20 years ago.

16 Q. Do you remember your testimony?

17 A. I remember some parts of my testimony.
18 Some parts --

19 Q. Do you --

20 A. -- I don't remember.

21 Q. Do you remember testifying and denying
22 that you tried to bribe him?

23 A. No.

24 Q. Do you remember testifying about money

1 coming from him to you?

2 A. I don't recall.

3 Q. All right. Last time, for the record,
4 you are unable to provide any facts to support
5 your statement that Brenda Walker had a grudge
6 against you, correct?

7 A. I'm not a lawyer --

8 MS. MARTINEZ: Just one second.

9 Objection. Form. Asked and answered.

10 You can answer.

11 A. I'm not a lawyer, I'm not a detective,
12 I'm not an attorney, so I'm not sure how to answer
13 that question.

14 Q. The answer is to tell me the facts that
15 are known to you. You don't have to be a
16 detective to know facts. You testified that she
17 had a grudge. I want to know why you said that.

18 MS. MARTINEZ: Same objection.

19 You can answer.

20 A. I don't have an answer for you at this
21 time.

22 - - - - -

23 Thereupon, Exhibit 21 is marked for
24 purposes of identification.

1 - - - - -

2 Q. I'm going to hand you what I've marked
3 as Exhibit 21. It's an affidavit by LaKeon
4 Horton. Tell me again what your relationship is
5 with LaKeon Horton.

6 A. Let me read over this, first, please.

7 Q. Sure.

8 A. What was the question?

9 Q. I'm sorry?

10 A. What was the question?

11 Q. I haven't asked you a question yet.

12 The question is, have you seen this before?

13 A. Have I seen this document before?

14 Q. Correct.

15 A. There's so many documents.

16 Q. All right. Well, let me ask you a
17 different question. Did you help draft this
18 document?

19 A. No.

20 Q. Did you discuss this with LaKeon when
21 he was writing it?

22 A. No. I don't think so. This -- this
23 document has a stamp from a Carol Wright. So this
24 had to have been something that he had --

1 Q. Who is Carol Wright?

2 A. Carol Wright was one of my appeal
3 lawyers. I had a few over the 16 years I was
4 wrongfully incarcerated. This -- I'm looking for
5 a date on here, but this had to have happened
6 after I was already incarcerated.

7 Q. It says: Sworn to and subscribed on
8 the 1st day of January, 2007.

9 It's on the second page. Do you see
10 that?

11 A. I see it.

12 Q. All right. I want to ask you about
13 some of the information in here.

14 Paragraph 2 says: I lived with Richard
15 Horton on Reynolds Avenue, in Columbus, Ohio,
16 during the summer of 20 -- I'm sorry -- during the
17 summer of 2005.

18 Is that true?

19 A. He stayed with me periodically.

20 Q. Why was that?

21 A. The house that I stayed in, there was a
22 couple gentlemen, different gentlemen staying in
23 there, in and out. It was kind of like a frat
24 house.

1 Q. Did he pay rent?

2 A. No.

3 Q. Paragraph 3. On one occasion, during
4 the summer of 2005, I was in a car with Richard
5 Horton on our way back to the house on Reynolds
6 Avenue. We saw Richard McClanahan traveling in a
7 car and he stopped to talk with Richard Horton.

8 Do you see that?

9 A. I see it.

10 Q. Is that a correct statement?

11 A. He -- he swore to the statement.

12 Q. Okay. But you swore, too, when you
13 testified earlier that you were alone in the car,
14 correct?

15 MS. MARTINEZ: Objection. Misstates
16 his prior testimony.

17 You can answer.

18 Q. So whose version is correct, LaKeon's
19 or yours?

20 MS. MARTINEZ: Same objection.

21 You can answer.

22 A. This was a long, long time ago. Both
23 versions -- I'm not -- I'm not sure. You know, I
24 might have been mistaken, he might have been

1 mistaken. I'm not sure.

2 Q. So is it fair to say that after seeing
3 this, you can't recall the details of your
4 conversation with -- that first conversation with
5 Mr. McClanahan?

6 MS. MARTINEZ: Objection. Form.

7 A. No, it's not fair. It's -- what I'm
8 not recalling is was LaKeon in the car with me.

9 Q. Okay.

10 A. Is this -- is this the first or the
11 second encounter? I'm just -- it's kind of minor
12 details. I didn't commit this crime.

13 Q. Okay. Well, you testified earlier that
14 you saw McClanahan on that first occasion and you
15 got out of the car and went to talk to him,
16 correct? That's what you testified to earlier
17 today.

18 A. Yes.

19 Q. And in here, LaKeon says McClanahan
20 stopped and got out of the car to talk to you.
21 Now, would you agree with me that both of those
22 things can't be true?

23 MS. MARTINEZ: Objection to the
24 characterization of the document.

1 You can answer.

2 THE WITNESS: Oh. Sorry about that.

3 MS. MARTINEZ: That's okay.

4 A. What I'm confused about is this -- I'm
5 confused on how to answer the question. So, you
6 know, you're asking me about something that
7 happened over 20 years ago. And regardless of the
8 fact, McClanahan came under his own free will, and
9 I believe he -- you know, that's -- that's the
10 point that really matters. I'm -- I'm --

11 Q. Can you speak with confidence right now
12 as to whether LaKeon was with you in the car when
13 you saw McClanahan?

14 A. I do not recall.

15 Q. Paragraph 4. LaKeon writes: We got
16 back to the house and I saw Richard McClanahan
17 enter the house. I heard some of the conversation
18 he had with Richard Horton. I heard Richard
19 McClanahan tell Richard Horton that if Richard
20 Horton gave him some sum of money, he would go to
21 the police station and tell the police that
22 Richard Horton had not been the man that robbed
23 him.

24 Do you see that?

1 A. I see it.

2 Q. Did Richard McClanahan tell you that he
3 would recant his testimony if you gave him money?

4 A. I do not recall.

5 Q. I asked you that earlier and you said
6 no. Are you unsure now?

7 A. Well, you know, I don't -- I thought
8 you asked me a different question, so I don't -- I
9 don't recall.

10 Q. Did Richard Horton ask you for money in
11 exchange for changing his testimony?

12 A. I don't recall.

13 Q. Paragraph 5. I spoke with Richard
14 Horton about this conversation and Richard told me
15 he was not going to pay any money because he was
16 not guilty.

17 Do you see that?

18 A. I see paragraph 5.

19 Q. Do you recall that conversation with
20 LaKeon?

21 A. There was -- this is a real long time
22 ago. I don't --

23 Q. The answer is no, you don't recall?

24 A. I don't recall.

1 Q. Paragraph 7. I was willing to testify
2 to these facts during Richard Horton's trial and
3 continue to be willing to testify.

4 Do you see that?

5 A. I see that.

6 Q. Did you tell your lawyer that LaKeon
7 Horton was willing to testify at trial?

8 A. Yes.

9 Q. Did LaKeon testify at trial?

10 A. LaKeon did not testify at my trial.

11 Q. Why not?

12 MS. MARTINEZ: Objection. Foundation.
13 You can answer.

14 A. I'm not sure why we didn't have LaKeon
15 testify on my behalf during trial. This is a
16 pretty big piece of evidence that might have
17 helped, but, you know...

18 Q. So who made the decision for LaKeon not
19 to testify? Was it you?

20 A. I don't think it was me.

21 Q. Was it LaKeon?

22 A. I don't think it was LaKeon.

23 Q. Was it your attorneys?

24 A. It --

1 MS. MARTINEZ: Excuse me. Objection.
2 Foundation.

3 You can answer.

4 A. It -- I assume this would have been one
5 of my lawyers' decisions.

6 Q. Were there other witnesses you were
7 aware of that you wanted to call at trial that
8 your lawyers did not call?

9 A. Oh, man. I do not recall. That's a
10 tough one right there. You know, I spent so much
11 time trying to figure out how I got myself into
12 this situation, and I second-guess myself so many
13 times and my trial strategy so many times, but it
14 really had nothing to do with my lawyers or their
15 strategy because it's police misconduct that put
16 me in that situation. So once I --

17 Q. Did you feel that you and your defense
18 counsel made mistakes during the trial?

19 A. We weren't perfect.

20 Q. What mistakes?

21 MS. MARTINEZ: Objection. Foundation.

22 You can answer.

23 A. We probably -- this -- well, starting
24 right here, this affidavit probably would have

1 been a good start, but I don't believe --

2 Q. What do you mean the affidavit would
3 not have been a good start?

4 A. No. I thought I said it would have
5 been a good start. I'm sorry --

6 Q. Oh.

7 A. -- if I misspoke.

8 Q. You mean to call LaKeon.

9 A. Yeah. If I misspoke, I apologize.
10 This right here might have been a good start to
11 use this testimony, but I don't think even -- I'm
12 not sure what happened.

13 Q. The jury found you guilty, correct?

14 A. The jury did find me guilty.

15 Q. What charges did the jury find you
16 guilty of?

17 A. So the way -- the way a trial works is
18 when you go to trial and you lose, you get found
19 guilty of each and every count on the indictment.
20 And I'm not specific to know every -- I can't
21 remember every detail of the indictment, but I
22 remember it was a 11 -- 11 count indictment.

23 I remember when the -- when the bailiff
24 said the guilty verdict, my wife let out a scream.

1 And they had to stop the proceedings because,
2 quite frankly, we were all shocked because I
3 didn't commit the crime. And they had to escort
4 my wife out of the courtroom.

5 Q. Okay. But the jury --

6 A. Excuse me. I'm not finished.

7 Q. Uh-huh.

8 A. And then once they was able to escort
9 my wife out of the courtroom, she was kind of
10 hysterical, they started back with the
11 proceedings. And I just remember kind of going
12 numb because the judge just kept saying guilty,
13 guilty, guilty, guilty.

14 - - - - -

15 Thereupon, Exhibit 22 is marked for
16 purposes of identification.

17 - - - - -

18 Q. I'm going to hand you what I've marked
19 as Exhibit 22. Do you recognize this as the
20 judgment entry in your case?

21 A. Let me read over it real quick. Sorry.

22 Q. Have you had an opportunity to read
23 that?

24 A. Yes. Sorry. I'm -- just looking over

1 this -- this judgment entry, it's a little
2 triggering because as you can see --

3 Q. I'm sorry. It's a little what?

4 A. It's a little triggering because as you
5 can see, they sentenced me to 23 years.

6 Q. That's correct. You were sentenced to
7 23 years. You were found guilty of aggravated
8 burglary with a gun specification; is that
9 correct?

10 A. That's correct.

11 Q. Do you know what a gun specification
12 means?

13 A. No. No. Could you explain it to me?

14 Q. Sure. It means that you committed the
15 offense using a firearm. That adds to the
16 penalty.

17 You were found guilty of aggravated
18 robbery with a gun specification. Do you see
19 that?

20 A. I see it.

21 Q. You were found guilty of kidnapping
22 with a gun specification? Yes?

23 A. I see it.

24 Q. Felony assault with a gun

1 specification? Yes?

2 A. Yes. I see it.

3 Q. Aggravated robbery with a gun
4 specification?

5 A. I see it.

6 Q. Another count of kidnapping with a gun
7 specification, correct?

8 A. I see it.

9 Q. And those are all felonies, correct?

10 A. Yes. Yes, they are.

11 Q. All right. And then, finally, you were
12 found guilty of weapon under disability. Do you
13 see that?

14 A. I see that.

15 Q. Do you have an understanding of what a
16 count of weapon under disability means?

17 A. I believe it's when a person has a gun
18 and they're already on parole or probation.

19 Q. And that would have applied to you. If
20 you had been using a gun, you would be guilty of
21 that, correct?

22 A. If I would have -- yes, I was found
23 guilty --

24 Q. Because you were under parole.

1 A. Yes, I found -- I was found guilty of
2 all these charges.

3 Q. Okay. Now, for the weapon under
4 disability charge, if you recall, does the jury
5 find you guilty of that?

6 A. I don't recall.

7 Q. Okay. And then, as you said, you were
8 sentenced to a total of 23 years, correct?

9 A. Yes. The 23-year sentence for this
10 crime was particularly devastating because
11 essentially it was a life sentence. And now, you
12 know, when I go and when I talk about this
13 wrongful conviction, I always try to make sure
14 that I tell that to the crowd because essentially,
15 you know, they sentenced me to life for a crime I
16 didn't commit because when I started this prison
17 time I was 29 years old.

18 So 16 years was taken away from me,
19 taken away from time being with my family, and it
20 was particularly hard because it being such a long
21 sentence, something that -- it kind of seemed
22 insurmountable at the beginning.

23 MR. EPSTEIN: Now, Alyssa, I'm going to
24 note for the record there's an amended sentencing

1 entry. It just corrects some technical things.
2 I'm not going to mark it as an exhibit unless you
3 want me to, but I wanted to make sure you were
4 aware of that.

5 MS. MARTINEZ: No. It's okay. Thank
6 you, Counsel.

7 BY MR. EPSTEIN:

8 Q. I want to circle back to Brenda Walker
9 and the statement about police misconduct. I
10 would like you to tell me in your words all of the
11 things you believe constitute police misconduct by
12 Brenda Walker.

13 A. You would like for me to tell you all
14 of the things that I believe? Is that what you
15 said?

16 Q. This is your opportunity, yes.

17 A. I'm going to let -- I'm going to let
18 the lawyers handle that. I'm not sure how to
19 answer that question.

20 MR. EPSTEIN: Okay. In that case,
21 let's take five minutes.

22 MS. MARTINEZ: Okay.

23 THE VIDEOGRAPHER: We are off the
24 record. The time is 4:10.

1 (A short recess is taken.)

2 THE VIDEOGRAPHER: This marks the
3 beginning of Media No. 6. We are back on the
4 record. The time is 4:26.

5 BY MR. EPSTEIN:

6 Q. Mr. Horton, before we move on to
7 another topic, I just want to make sure that you
8 have told me everything you recall about your
9 conversations with Mr. McClanahan. Can you think
10 of any details, any facts about either of those
11 conversations that you have not told me?

12 A. That -- that's a good question. I hope
13 he's resting peacefully, but, no, I can't -- I
14 can't recall at this time any other conversations
15 that I've had with Mr. McClanahan.

16 Q. Prior to your trial, did you try to
17 reach out to Tracy McClanahan?

18 A. Tracy McClanahan, I can't even remember
19 who that is. Is that -- is that the niece or the
20 daughter?

21 Q. Well, would that make a difference? Do
22 you remember going to someone's work to speak to
23 them?

24 A. Not at this time, no. With the last

1 name McClanahan, not at this time, I don't
2 remember.

3 Q. Did you reach out to any family members
4 to try to talk to them before or during the trial?

5 MS. MARTINEZ: Objection. Form.

6 You can answer.

7 A. Yes. I remember -- so I went to a high
8 school named Centennial High School and our rival
9 was Whetstone High School, so I remember a
10 gentleman with the last name of McClanahan who was
11 a -- was a bigger rival, a better rival, better
12 basketball player, taller, more athletic.

13 And I can remember seeing him sometime
14 in between before I went to trial and talking to
15 him about his uncle. And he didn't want to have
16 anything to do with it and he didn't want to
17 testify for me or against him or for him against
18 me. He didn't want to have anything to do with
19 it. I do remember that.

20 Q. Anybody else in the family that you
21 reached out to?

22 A. I can't recall at this time.

23 Q. Did you try to talk to Rhonda Curry?

24 A. Rhonda Curry. I remember during the

1 court proceedings, I had attempted to speak with
2 Ms. Rhonda Curry one time during the court
3 proceedings and she was absolutely terrified. And
4 it -- she was so terrified it scared me from me
5 even trying to reason with her or talk to her.

6 You know, you all come -- both the
7 accused and the accuser both go into and leave the
8 courtroom at the same time. So I can remember
9 bumping into her a couple times and she was
10 absolutely terrified. So I did try to talk to
11 her, but she was terrified, so I left that alone.

12 Q. What did you say to her?

13 A. Can we talk for a second? And she
14 started getting hysterical. So I said, you know
15 what, I apologize. And I just moved on.

16 Q. And you knew that was a violation of
17 the terms of your parole, correct?

18 A. Since I hadn't been found guilty yet,
19 I -- no, I didn't know.

20 Q. You didn't understand that the terms of
21 your release were that you have no contact with
22 Rhonda Curry or Rick McClanahan?

23 A. I do not recall because, you know, we
24 was in such close quarters.

1 Q. Did Mr. McClanahan step in when you
2 tried to talk to her?

3 A. I don't believe so. You know, at this
4 time I'm just trying to do anything that I can to
5 get this -- get this taken care of, you know,
6 without having the courts, you know, too involved.
7 I'm trying not to go to trial. I didn't commit
8 this crime, so when I see them, you know, I'm just
9 trying to talk with them, just trying to reason
10 with them.

11 Q. Are you aware that to this day, Rhonda
12 Curry insists that you are the attacker?

13 A. I am aware.

14 Q. If Rick McClanahan knew that you were
15 not the person, why did he testify that you were?

16 MS. MARTINEZ: Objection. Foundation.
17 You can answer.

18 A. I don't have an answer for that
19 question. I'm -- I'm not still to this day not
20 100 percent sure. I know he passed away. And I
21 don't want to speculate what he thought.

22 Q. Once you were convicted, where were you
23 taken?

24 A. I was taken to the -- sorry -- a

1 correctional receiving facility. That's where
2 they -- that's where they shave your head. Quite
3 frankly, they treat you like a animal. They give
4 you your number. They talk really bad to you.
5 And then on top of that fact that I was sentenced
6 to serve 23 years, it -- it -- like I always like
7 to tell people, prison is just exactly what you
8 think it is, what you see on the movies, that's
9 what it is, it's bad.

10 Q. How long were you in the first facility
11 that you were taken to?

12 A. Maybe about 60 days until they sent me
13 to my parent institution.

14 Q. So before you were sent there, you were
15 actually in the county jail; is that your
16 understanding?

17 A. I was -- yes. For about three -- maybe
18 a couple of days, yeah.

19 Q. What was your mood like then?

20 A. You know, after I was found guilty and
21 then sentenced to 23 years for a crime that I
22 absolutely did not commit, my mood was -- it was
23 pretty low. It was a really low point. I
24 actually -- that's when the suicidal thoughts

1 began, but me being so much of a coward, I didn't
2 have -- I didn't have the guts to go through with
3 it. But I often thought about suicide while I was
4 in prison, you know, just -- just I didn't want to
5 spend 23 years in prison for something I didn't
6 do.

7 Q. Did you ever attempt suicide?

8 A. No. I was -- I was a coward.

9 Q. Did you ever tell any of the prison
10 staff members that you had attempted suicide?

11 A. Yes.

12 Q. You did?

13 A. I -- yes, when I first -- yes, when I
14 first -- before -- when I -- before I even got to
15 prison. I don't want to -- excuse me. Not prison
16 officials, the jail. When I was at the county
17 jail before I went to the prison. They said, are
18 you having any suicidal thoughts? I said, as a
19 matter of fact, yes, I am. And that's when they
20 put me on suicide watch.

21 Q. No, I understand that.

22 A. Sorry about that.

23 Q. And by the way, they put you on
24 medication as well; is that correct?

1 A. I don't recall being on medication.

2 Q. Do you recall taking Prozac?

3 A. I don't recall.

4 Q. So when you were in the jail, you told
5 the jailers that you were having suicidal
6 thoughts, correct?

7 A. That's correct.

8 Q. Did you actually attempt to carry those
9 suicidal thoughts out?

10 A. Yes.

11 Q. You did try to kill yourself?

12 A. Yes. It was -- it was a weak attempt.
13 It was more --

14 Q. A minute ago --

15 A. -- of a cry for help.

16 Q. Well, a minute ago, you said no.

17 A. No. A minute ago, I said that I was a
18 coward.

19 Q. Did you try to kill yourself?

20 A. Yes.

21 Q. How?

22 A. I tried to suffocate myself.

23 Q. How?

24 A. It's kind of hard to explain. And to

1 keep reliving the stuff and answering all these
2 questions is very difficult for me to do. So I
3 just tried to suffocate myself with some plastic
4 from a sandwich. It was -- it was -- it was a
5 cowardly move and -- man.

6 Q. Did you report that attempt to the
7 authorities?

8 A. No. I was that much of a coward. I
9 couldn't even tell nobody about my weak suicide
10 attempt.

11 Q. Did you ever tell anybody?

12 A. I don't think so.

13 Q. We talked earlier about the fact that
14 when you'd go to a new institution, they would do
15 an intake and a medical review. Do you recall
16 when we talked about that?

17 A. I do recall.

18 Q. All right. I'm going to hand you a
19 sample of that.

20 - - - - -

21 Thereupon, Exhibit 23 is marked for
22 purposes of identification.

23 - - - - -

24 Q. I'm handing you what I've marked as

1 Exhibit 23. It's an Initial Medical/Mental
2 Health/Substance Use Screening for Richard Horton.
3 Do you see that?

4 A. I do.

5 Q. And it's dated March 8th of 2006,
6 correct?

7 A. That's correct.

8 Q. So this is one month after your
9 conviction, correct?

10 A. Correct.

11 Q. And it says Date of Arrival at
12 Institution, and it's the same date, March 8th,
13 2006, correct?

14 A. Correct.

15 Q. All right. Can you tell from this what
16 institution you are arriving at?

17 A. CRC.

18 Q. And what is CRC?

19 A. CRC is the -- it's the facility that I
20 spoke about earlier where they shave your head,
21 they take all your clothes, put you in prison
22 clothes, and they give you your prison number.

23 Q. Do you know what CRC stands for?

24 A. I can't remember. I do not recall.

1 Correctional Receiving Center? I can't -- I can't
2 remember.

3 Q. Well, and it says in the line below
4 that, received from FCCC.

5 A. That's correct.

6 Q. So maybe --

7 A. Sorry about that.

8 Q. -- FCCC is the place you were thinking
9 of where they first take you in and shave you?

10 A. No. No.

11 Q. No?

12 A. FCC is -- that's the Franklin County
13 Correctional Center.

14 Q. Okay.

15 A. That's the jail.

16 Q. Okay. And then if you look in the
17 middle where it says Comments, it says that you're
18 on Prozac. Does that refresh your recollection of
19 whether you were actually taking Prozac?

20 A. No, it doesn't. Not at this time it
21 doesn't.

22 Q. All right. And there's a line in the
23 middle top, History of Suicidal Thoughts, and you
24 checked yes, correct?

1 A. Yes.

2 Q. Because you gave them the information
3 as they were filling this out, correct?

4 A. At this point in time, it would have
5 been self-explanatory because once I go in -- once
6 I'm found guilty -- this is the way it works. Let
7 me try to paint a picture for you.

8 When they're taking my -- when they're
9 admitting me into the county jail, that's when
10 they ask me the question, they say, are you having
11 suicidal thoughts? And when I say yes, they put
12 me in the suicide wardrobe. So there's -- you
13 know, it's obvious at this point that I'm
14 suicidal because I have the suicide wardrobe on,
15 so they didn't really need to ask me anything. It
16 was --

17 Q. Okay. But I'm not asking --

18 A. -- pretty apparent.

19 Q. -- just about that line. I'm talking
20 about all the information on this form. Would
21 they have gone over it with you to get information
22 from you?

23 MS. MARTINEZ: Objection. Form.

24 You can answer.

1 A. I can't recall at this time.

2 Q. For example, under Mental Health
3 Disposition, the third line says Routine Housing
4 Requested. And it's checked yes.

5 They would have to check with you to
6 see if you were requesting routine housing,
7 correct?

8 A. Oh. I'm sorry, sir. Obviously, you've
9 never been to the county jail in Columbus, Ohio.
10 They don't ask you anything. I had the suicide
11 vest on and I was in suicide watch all the way
12 until I left the county jail.

13 Q. Okay. Well, is it your testimony that
14 they didn't take any information from you when
15 they were filling out these forms?

16 A. No, that's not my testimony. I can't
17 recall what information was taken.

18 Q. Okay. Down toward the bottom it says
19 Substance Use Screening. Do you see that?
20 History of Alcohol and Drug Problem, and it's
21 checked no. Is that a correct answer?

22 A. No.

23 Q. Previous Alcohol and Drug Treatment is
24 checked no. Is that a correct answer?

1 A. No.

2 Q. A few lines down from that, Cannabis,
3 it's checked no. Is that a correct answer?

4 A. No.

5 Q. Cocaine is checked no. Is that a
6 correct answer?

7 A. No, not at this time, no. It looks
8 like they pretty much just filled it out.

9 Q. Can you think of any reason why you
10 would have given incorrect information to them?

11 MS. MARTINEZ: Objection. Form.

12 Q. I mean, we did talk earlier about there
13 are times where an inmate will strategically give
14 incorrect information, correct?

15 A. Yes, we did discuss that.

16 Q. Right. So is there any reason why you
17 would have -- if this information came from you,
18 is there any reason why strategically you would
19 have given incorrect information?

20 A. No, not -- not at this point in time
21 when this was getting filled out. Like I said,
22 you've never been to the county jail in Columbus,
23 Ohio, which I believe they're getting ready to
24 close it because it has so much of a bad

1 reputation, but they don't ask you a lot of
2 questions. You pretty much -- gladiator school
3 pretty much starts then and there.

4 Q. Did you receive psychological
5 counseling while you were in prison?

6 A. I believe I did.

7 Q. Do you know any of the names of the
8 people who provided that?

9 A. I can't recall at this time.

10 MR. EPSTEIN: Bear with me one second.

11 Q. Are you aware of when -- of receiving
12 any clinical diagnoses when you were admitted?

13 A. Not at this time, I can't recall. No.
14 I just -- I just want to keep going back to the
15 point that things in prison are handled a lot
16 different than they're handled out here in the
17 real world. So, you know, it might not be as
18 simple as me just going to see a doctor, and a
19 doctor saying you suffer from depression
20 because, you know, you're saying that you're
21 having suicidal thoughts. I think that you -- you
22 know, it's just not that simple.

23 Q. Did you suffer from depression?

24 A. Yes, I did suffer from depression.

1 It's hard enough being in prison, being around all
2 this madness and all these bad people and this
3 violence, gangs, but it was even harder knowing
4 that I was innocent. It was even harder -- it was
5 even harder knowing that my family needed me and I
6 couldn't be there for them. It was even harder
7 being away from my children. So, yeah, I was -- I
8 definitely had some dark days.

9 Q. Who is Ed Smith?

10 A. I don't remember. That name doesn't
11 sound familiar.

12 Q. Okay.

13 - - - - -

14 Thereupon, Exhibit 24 is marked for
15 purposes of identification.

16 - - - - -

17 Q. I'll hand you what's been marked as --

18 MR. GIRARD: Exhibit 24.

19 Q. -- Exhibit 24.

20 MR. EPSTEIN: If you say so.

21 Q. I'll represent to you that this is a
22 document we received from the Department of
23 Rehabilitation and Correction. It's a Mental
24 Health Treatment Plan Review for you. And it's

1 prepared by Michele Whaley and Ed Smith. Do you
2 see those names in the top right corner?

3 A. Top right corner.

4 MS. MARTINEZ: I just want to clarify
5 super quickly, Counsel. I'm sorry. Was this
6 produced? I just don't see a Bates stamp. I'm
7 not sure if it was cut off on my copy.

8 MR. EPSTEIN: I think it was cut off.

9 MS. MARTINEZ: Okay.

10 MR. EPSTEIN: It was produced.

11 MS. MARTINEZ: Okay. I trust you. I
12 take your word. I just want to make sure I'm not
13 missing it.

14 MR. EPSTEIN: If you can't find it, let
15 me know and I'll direct you to the page -- to the
16 Bates number.

17 MS. MARTINEZ: Okay.

18 BY MR. EPSTEIN:

19 Q. Okay. What I'd like to direct you to
20 is the top left. And by the way, this is dated
21 January 17th of 2007, correct?

22 A. Yes, I see that date.

23 Q. Okay. Do you see in the top left it
24 says: Axis I, Adjustment Disorder with Mixed

1 Anxiety and Depressed Mood. Do you see that?

2 A. I see that.

3 Q. Do you have any understanding of what
4 that means?

5 A. No, I do not. Would you care to
6 explain?

7 Q. I will not because I am not a medical
8 doctor. Axis Ia says: Polysubstance Dependence.
9 Do you see that?

10 A. I do see it.

11 Q. Do you have an understanding of what
12 that means?

13 A. No, I do not.

14 Q. And, finally, Antisocial Personality
15 Disorder. Do you see that under Axis II?

16 A. I do see it.

17 Q. All right. And do you have any
18 understanding of what means?

19 A. I do have a vague understanding of what
20 antisocial personality disorder means.

21 Q. What is your understanding of
22 antisocial personality disorder?

23 A. This sounds, and I'm guessing here, but
24 this sounds like somebody who doesn't necessarily

1 want to be around a whole lot of people, and the
2 cause of this person maybe feeling like that would
3 be because of this -- of this disorder. But I'm
4 not, like you said, I'm not a doctor. I probably
5 even shouldn't be trying to explain this.

6 Q. Did you have sessions where you could
7 talk to staff and tell them how you were feeling?

8 A. I don't recall at this time. This
9 was -- I don't recall.

10 MS. MARTINEZ: I just want to quickly
11 preserve an objection to Exhibit 24 to the extent
12 it wasn't produced. I haven't been able to find
13 it. It could be there, but I just want to
14 preserve that for right now.

15 - - - - -

16 Thereupon, Exhibit 25 is marked for
17 purposes of identification.

18 - - - - -

19 Q. I'm going to hand you what I've marked
20 as Exhibit 25.

21 MS. MARTINEZ: Thank you.

22 Q. It's a handwritten letter that appears
23 to be directed to Ed Smith from Richard Horton.
24 Did you write this?

1 A. This does look my -- look my -- look
2 like my handwriting.

3 Q. Have you had an opportunity to read
4 it?

5 A. I have.

6 Q. Now that you've read it, do you
7 recognize it?

8 A. I still don't recognize it, but --

9 Q. Do you have any reason to dispute that
10 you wrote it?

11 A. No, I don't have any reason to dispute
12 that I wrote this at this time.

13 Q. Do you know why you would have been
14 writing this to Mr. Smith?

15 A. It says on here that my concern was
16 that I had gotten into trouble in the visitation
17 room. It says on here that I was only in the
18 visitation for five minutes, that I did not grab
19 my wife's backside, and I was -- it sounds in
20 here -- it says in here also that I was just more
21 concerned about my wife's mental health than my
22 own.

23 Q. Okay. But did you receive some
24 discipline for inappropriate touching with your

1 wife?

2 A. It says on here what was -- what's on
3 here would indicate, yes, that I did.

4 Q. Let's assume that you did. If you had,
5 and you wanted to challenge it administratively,
6 is this the procedure you would use to handwrite a
7 letter to Mr. Smith?

8 A. I don't know who Ed Smith is, but this
9 is -- this is not the correct form.

10 Q. What would be the correct form?

11 A. It's -- it's -- I'm not 100 percent
12 sure. It was some type of appeal form like -- but
13 this is -- this doesn't have the correct format.
14 Maybe this was inside the form.

15 Q. Now, you wrote: In July '08, my wife
16 had a nervous breakdown.

17 Do you see that?

18 A. Yeah.

19 Q. What happened?

20 A. I mean, my wife had so many nervous
21 breakdowns, especially at the beginning of my
22 wrongful incarceration, and just trying to deal
23 with me being snatched away for a crime I didn't
24 commit. It's -- I can't recall exactly what the

1 circumstances surrounding this particular nervous
2 breakdown were. I just -- it just -- it's kind of
3 hard for me to even talk about to this day that
4 she went through all that pain.

5 And then The Ohio Innocence Project
6 gets me out of prison, and it was all -- it was
7 all something she didn't have to go through, you
8 know. It's a -- it's a testament to her strength
9 at the same time, but this -- this -- this
10 is -- this is -- this is kind of hard for me to
11 look at.

12 Q. There's a notation in the margin that
13 says: P.S., I need to talk with you, sir.

14 Do you see that?

15 A. I see it.

16 Q. All right. Does that notation tell you
17 anything about who Mr. Smith might be?

18 A. No.

19 Q. Okay. So if I were to represent to you
20 that Mr. Smith provided counseling, you wouldn't
21 know whether that was true or not?

22 A. I would say that I do not recall at
23 this time because I still can't remember who Ed
24 Smith was or is.

1 - - - - -

2 Thereupon, Exhibit 26 is marked for
3 purposes of identification.

4 - - - - -

5 Q. I'll hand you what I've marked as
6 Exhibit 26. It's captioned Interdisciplinary
7 Progress Notes.

8 MS. MARTINEZ: You don't have to read
9 through the whole thing, but just flip through the
10 pages so you know what you're looking at.

11 Q. I just want to direct your attention
12 down to the bottom of the page. Do you see
13 Mr. Smith's signature at the bottom right?

14 A. Yes.

15 Q. All right. And these are dated and
16 timestamped notations. Do you see that?

17 A. Yes.

18 Q. I want to direct your attention first
19 to an entry on the first page, dated
20 November 18th of 2008 at 9:30 a.m. Brief
21 Psychology Note. Do you see that?

22 A. I do see it.

23 Q. And if you read, I'm not going to read
24 the whole thing, but it talks about the incident

1 we just referred to, that there was inappropriate
2 contact with your wife. Do you see that?

3 A. I do see it.

4 Q. And it says: He received a ticket and
5 the visit was terminated.

6 What does it mean to receive a ticket?

7 A. To receive a ticket would be, like,
8 similar to you driving and speeding, you would get
9 a ticket submitted against you by a traffic
10 officer, right? So they would submit the ticket.
11 It seems like my visit was instantly terminated,
12 and I probably went back to my dorm and waited on
13 my day in court.

14 So after that, the next part of the
15 process would be my sergeant would probably call
16 me to his office and he would hear the ticket,
17 read over the ticket, see, you know, what -- what
18 details were inside the ticket, and then he would
19 make a ruling, did he believe the officer or did
20 he believe what I said.

21 Q. Do you remember this particular ticket?

22 A. No, I -- not at this time. I don't
23 remember.

24 Q. All right. Back to the same section,

1 please. The next sentence says: He said that
2 she -- referring to Janette -- she is his only
3 support and is fearful of a possible visiting
4 restriction.

5 Do you see that?

6 A. Where are you at? I'm sorry.

7 Q. In the same Brief Psychology Note of
8 November 18th, 2008. Right after he received the
9 ticket.

10 A. I see it.

11 Q. He said that she is his only support
12 and is fearful of a possible visiting restriction.

13 Was Janette your only support at that
14 time?

15 A. During this time in 2008, you know,
16 times are hard out here especially for my family.
17 I didn't have a lot of support, I didn't have a
18 lot of people who believed I was innocent in 2008.
19 I lost contact with some very good friends, good
20 people, family members. Was Janette my one and
21 only support? I can't -- I honestly can't recall.

22 Q. Which family members did you lose
23 contact with as a result of your conviction?

24 A. So many. It's -- I just -- I don't

1 even talk to some of them to this day because, you
2 know, some of them passed away, some of them moved
3 on with their life.

4 Q. Well, give me some names.

5 A. Let me think of some names. Some
6 aunts, some uncles, some relatives that live in
7 different states now.

8 Q. Well, let's narrow it down. Were there
9 people that you were close to before the
10 conviction that were no longer close with you, no
11 longer supportive of you after the conviction?

12 A. Yes.

13 Q. Who?

14 A. People -- that's a tough question.
15 People like a cousin named Raheem Horton. He
16 was -- he and I were very close. He went on to
17 the military and kind of lived his life.

18 Q. When did he go into the military?

19 A. I'm not exactly sure of the year at
20 this time.

21 Q. I mean, is he your age cohort or is he
22 younger?

23 A. A little younger.

24 Q. Where was he around the time of your

1 trial?

2 A. I'm not -- I'm not sure at this time
3 where he was. It would have been nice to have him
4 there for a little support.

5 Q. Did you have a relationship with him
6 after you got out of the West Virginia prison?

7 A. Yes.

8 Q. Where was he at that time?

9 A. In between service for the Navy.

10 Q. He was here in Columbus?

11 A. Here in Columbus, Ohio.

12 Q. And where is he now?

13 A. He lives here in Columbus, Ohio.

14 Q. Have you reached out to him since
15 you've been released from prison?

16 A. Yes. He congratulated me, and I told
17 him thanks for the congratulations.

18 Q. And what's your relationship like right
19 now?

20 A. It's not quite the same because, you
21 know, I wish he would have been there and been a
22 little bit more supportive of me or my family
23 during this wrongful conviction.

24 Q. Anybody else you can mention?

1 A. Not at this time, no. It's just --
2 it's just -- it's just kind of -- it's just hard
3 because, you know, you're asking me to relive
4 emotions and think about stuff that I haven't
5 thought about in a long time. I really tried to
6 push forward, but with this wrongful -- this
7 wrongful conviction it's like dropping a bomb into
8 the family structure and a lot of people was hurt.

9 Q. I'd like you to turn to -- it's the
10 same document. It's Bates No. 7237. Are you with
11 me?

12 A. I think so.

13 Q. No, that's not the page.

14 MS. MARTINEZ: In the bottom right
15 corner is going to be 7237.

16 A. 37 -- 37 --

17 Q. In the top left corner is a notation
18 dated July 11th of 2006.

19 MS. MARTINEZ: That one looks right.

20 A. Okay.

21 Q. It says: Psychiatry continued.

22 Do you see that?

23 A. I see it.

24 Q. All right. And you see at the bottom

1 again there's Mr. Smith's signature?

2 A. I see it.

3 Q. All right. I want to read you a
4 notation that's here. It's the last one,
5 July 25th of '06 dated, 9:35 a.m. Are you with
6 me?

7 A. I'm with you.

8 Q. Brief Psychology Note. Horton spoke at
9 length of numerous mistakes at his trial. He
10 denied the robbery, but admitted the bribery.

11 Do you see that?

12 A. I see it.

13 Q. Did you tell Mr. Smith that you
14 attempted to bribe Rick McClanahan?

15 A. I do not recall at this time.

16 Q. So it's possible you did?

17 A. I do not recall at this time.

18 Q. Can you think of any reason why
19 Mr. Smith would have written that down if you did
20 not say that?

21 A. Well, at this time, you know,
22 it's -- it's easy to think that everyone is
23 against you, and everyone was against me. I don't
24 know why it's written on here. I don't -- these

1 documents don't look familiar to me. I don't have
2 a complete answer for you at this time. I do know
3 that I was never charged with a bribery charge.

4 Q. This is true, but did you bribe him or
5 did you try to attempt to bribe him?

6 A. No, I did not.

7 Q. Did you tell Mr. Smith that you did?

8 A. I did not recall at this time.

9 Q. Before that, it says: Horton spoke at
10 length of numerous mistakes at his trial.

11 Do you know what that's a reference to?

12 A. I do not recall at this time.

13 Q. Looking back on it now, what mistakes
14 do you see at your trial?

15 A. Well, looking back on it now that I've
16 had The Ohio Innocence Project involved in my case
17 and they were the ones who ultimately freed me
18 from this wrongful conviction, I'm aware of a
19 records request where some evidence was not
20 presented or not available to me at my trial, and
21 then magically, once The Ohio Innocence Project
22 gets involved in my case, magically these court
23 papers are produced out of thin air.

24 Q. What papers are those?

1 A. I'm not sure how to explain the papers,
2 but...

3 Q. I'm sorry?

4 A. I'm not sure how to explain the papers.
5 I don't recall exactly what they said. I'm not a
6 lawyer, but I know they weren't available for me
7 during trial.

8 Q. And it's your belief that those papers
9 were deliberately concealed from you?

10 A. I'm not sure how to answer the
11 question, but I'm going to say I do believe it was
12 done with malicious intent.

13 Q. Do you have a theory as to why somebody
14 would do that?

15 A. No, I don't have a theory right now.
16 I've thought about this numerous nights trying to
17 figure out, like I said, how I got myself into
18 this position, what was -- who was to blame, what
19 I could have done differently, but I just don't
20 know why this happened to me.

21 - - - - -

22 Thereupon, Exhibit 27 is marked for
23 purposes of identification.

24 - - - - -

1 Q. I'm going to hand you what I have
2 marked as Exhibit 27.

3 A. Thank you.

4 Q. It's a collection of handwritten notes.
5 Are these the documents you were referring to a
6 minute ago that you believe were concealed from
7 you?

8 A. I'm sorry, I do not recall at this
9 time.

10 Q. Do you recognize this document?

11 A. I've looked over so many documents over
12 the years and even today. This --

13 Q. Okay. That's fine. Would you turn to
14 the page that's Bates numbered 00048?

15 A. Yes.

16 Q. All right. And do you see, starting in
17 the middle, there's some physical descriptions?

18 A. Yes.

19 Q. All right. The first item is male,
20 black, 5'9" to 6'1". Does that description match
21 you?

22 A. No.

23 MS. MARTINEZ: I'm going to object to
24 the characterization of the document as saying

1 6'1".

2 MR. EPSTEIN: It does not.

3 Q. Are you a male, black?

4 A. I am a male, black.

5 Q. Do you fall within the range of 5'9" to
6 6'1"?

7 A. I do not.

8 Q. Earlier you testified you were 6'1".

9 I'm sorry. I misspoke. It's 5'9" to 6'.

10 A. Then you already have the answer to
11 your question.

12 Q. Yes. Okay. So this does not describe
13 you because you are not 6', you are 6'1", correct?

14 A. That would be correct.

15 Q. Okay. Light skin. Do you consider
16 yourself to have light skin?

17 A. Yes.

18 Q. Short nappy hair?

19 A. Well, wait a minute, wait a minute.
20 Wait a minute now. Nappy.

21 Q. I agree. So let me ask you, what is
22 your understanding of the word "nappy" as a
23 descriptor for someone's hair?

24 A. Hair unkempt.

1 Q. Does it have another meaning?

2 A. I'm not sure at this time.

3 Q. Okay. Bushy eyebrows?

4 A. At -- well, not now. I'm 48 years old.
5 They were a little more full around this time.

6 Q. Okay. And this time was back in 2004,
7 correct? Well, I will represent to you these were
8 notes that were taken in 2004.

9 A. Yes.

10 Q. So I'll ask you to assume that. So if
11 we're assuming that these notes were taken in
12 2004, and there's a notation here that says: Just
13 out of prison, drugs.

14 Does that also describe you?

15 A. This could describe anybody.

16 Q. I understand that, but could it also
17 describe you?

18 A. This -- this could describe anybody.

19 This --

20 Q. Including --

21 A. It's already --

22 Q. Including --

23 A. -- not saying my height.

24 Q. -- you?

1 A. It could -- lots of black men could be
2 profiled by this description.

3 Q. Yes or no, Mr. Horton, do you fit that
4 description?

5 A. I'm not sure how to answer the
6 question.

7 Q. You can answer it, yes, that fits me,
8 or, no, that does not fit me.

9 A. I'm going to let -- I'm going to have
10 to say I don't know how you want me to answer this
11 question.

12 Q. Mr. Horton, you --

13 A. I've already answered the question.

14 Q. No. You --

15 A. You said -- you said does this fit me.
16 I said this could describe a number of black
17 males.

18 Q. A number of black males, including you,
19 yes or no? Were you out of prison recently in
20 2004?

21 A. This is not a perfect description of
22 me.

23 Q. Mr. Horton, were you out of prison
24 recently in 2004, yes or no?

1 MS. MARTINEZ: Just a belated form
2 objection.

3 You can answer.

4 A. Yes.

5 Q. Were you in prison for drugs?

6 A. Yes.

7 Q. Down below it says again, male, black,
8 27 to 28. How old were you in 2004?

9 A. I believe I was in between -- I believe
10 I was 27 years old.

11 Q. And it says Everett Middle School. Did
12 you go to Everett Middle School?

13 A. Yes, I did.

14 Q. Below that it says Adidas boy.

15 You've already testified that some
16 people referred to you that way, correct?

17 MS. MARTINEZ: Objection. Form.
18 Mischaracterizes testimony.

19 You can answer.

20 A. I testified that I don't remember being
21 called Adidas boy. I don't take kindly to anybody
22 calling me boy, never did, never will.

23 Q. Did people call you Adidas man?

24 A. They called me all types of stuff. I

1 think I've already answered that question.

2 Q. Including Adidas boy that some people
3 called you?

4 A. I don't --

5 MS. MARTINEZ: Same objections.

6 You can answer.

7 THE WITNESS: I'm sorry.

8 MS. MARTINEZ: It's okay.

9 A. I don't recall.

10 Q. Did you live on Reynolds Avenue at this
11 time?

12 A. I was staying in Reynolds Avenue and
13 Camden Avenue and Grove City. I was --

14 Q. And --

15 A. -- staying around.

16 Q. And Reynolds Avenue is a red brick
17 house, correct?

18 A. I'm not sure. I know I was paroled to
19 Camden Avenue.

20 Q. All right. Now, again, in the middle
21 of that it says Richard Diggs.

22 Did you ever hear in 2004 any
23 suggestion that Richard Diggs was involved in the
24 Loew Street robbery?

1 A. No, I did not, because if I would have,
2 I'm -- I would have tried to have that evidence
3 brought forward or any hearsay evidence brought
4 forward during my trial.

5 Q. Are you aware that at the time of the
6 Loew Street robbery, Richard Diggs was in prison?

7 A. No, I'm not aware of that.

8 Q. You were not aware of that until right
9 now?

10 A. I wasn't aware. I -- I wasn't aware of
11 it.

12 Q. I want you to assume that Richard Diggs
13 was in prison at the time of the Loew Street
14 robbery. Does that change your view about whether
15 you would have brought forth hearsay evidence to
16 try to prove that he committed the crime?

17 A. Yes, that does change my view. It
18 would have been pointless if he was incarcerated
19 at the time, and I didn't want to waste the
20 court's time.

21 MS. MARTINEZ: A belated form objection
22 to that question.

23 Q. While you were incarcerated, did you
24 file pleadings with the court, seeking release on

1 your own without a lawyer?

2 A. Yes, I did.

3 - - - - -

4 Thereupon, Exhibit 28 is marked for
5 purposes of identification.

6 - - - - -

7 Q. I'm going to hand you what I've marked
8 as Exhibit 28. It's a document captioned Motion
9 for Judicial Release, and it is signed by Richard
10 Horton. Do you see that?

11 A. I do.

12 Q. Is this a document that you filed with
13 the common pleas court, asking to be released from
14 prison?

15 A. Give me one second to look over the
16 documents.

17 Q. Absolutely.

18 Do you recognize this as a document
19 that you filed with the court?

20 A. One more second. Just let me read a
21 little bit more.

22 Okay. What was the question again?

23 Q. Do you recognize this as a document you
24 filed with the court?

1 A. Yes, I do recognize this document.

2 Q. And that's your signature on the first
3 page?

4 A. Yes.

5 Q. And that's your signature on the second
6 page?

7 A. Yes.

8 Q. And that's your signature on the third
9 page?

10 A. I do recognize those signatures.

11 Q. Okay. And the last page, your
12 signature again? The very last page.

13 A. I do recognize it.

14 Q. And the last signature is below a
15 Certificate of Service that represents that this
16 was mailed to the court on the 28th of September,
17 2017. Do you see that?

18 A. I do see it.

19 Q. So did you compile and mail this entire
20 document together?

21 A. I do not recall at this time. This was
22 a document filed and I was in prison. I forget
23 what year this was. This was --

24 Q. I just read it was 2017.

1 A. Yeah, but as far as how many years I
2 had been in prison, this was the 16th -- 13th --
3 12th year of me being wrongfully incarcerated and
4 I was just surrounded by evil and just trying to
5 get out of prison early. I completed a lot of
6 certificates. And, you know, you got to
7 understand that prison is a vile place, and I
8 just -- I just wanted to come home, man. I didn't
9 do it. I just wanted to come home.

10 Q. Let me direct your attention to the
11 third page. This is a letter that you wrote,
12 dated October 1st, 2017. Do you see that?

13 A. I see it.

14 Q. It was addressed to Judge John Bender,
15 correct?

16 A. That's correct.

17 Q. Judge Bender was the presiding judge in
18 your criminal case?

19 A. Yes, he was.

20 Q. I want to direct your attention to the
21 fifth paragraph of the letter. It says: If this
22 court does not find it appropriate to release me
23 directly back into society at this time, I
24 respectfully request release to the CBCF program

1 or some other prerelease program that this court
2 finds appropriate.

3 What is CBCF?

4 A. CBCF -- oh. CBCF is kind of like a
5 work release program. They have a good -- good
6 standing. I can't say exactly what CBCF -- CBCF
7 is at this time.

8 Q. Okay. The letter continues: However,
9 there is a program that has accepted me upon my
10 release. This program is in good standing with
11 the Department of Corrections and has a great
12 success rate. The Exit Program, 614-253-8969,
13 will contact you with an assessment and
14 recommendation to enter into the program.

15 Do you see that?

16 A. I see it.

17 Q. What is The Exit Program?

18 A. I do not recall at this time.

19 Q. Did you apply to The Exit Program?

20 A. I'm assuming that I did, yes.

21 Q. But you have no independent memory of
22 having done so?

23 A. Not from 2017, no.

24 Q. And I take it you have no independent

1 memory of what steps you had to take to apply to
2 The Exit Program?

3 A. I do not recall at this time.

4 Q. To your knowledge did you have any
5 paperwork from The Exit Program showing your
6 acceptance?

7 A. I do not recall at this time.

8 Q. Is it fair to assume that if you had
9 had paperwork showing your acceptance, you would
10 have attached it to this document?

11 A. It is safe to say that, but I'm not
12 sure if The Exit Program, if it even works like
13 that. I provided a phone number there, so -- and
14 said they would be contacting.

15 Q. Would it surprise you to learn that
16 The Exit Program says they have no record of you
17 applying?

18 A. No, it wouldn't surprise me.

19 Q. Why wouldn't it surprise you?

20 A. Because I can't even -- I can't
21 remember them, so I assume there wouldn't be any
22 harm if they wouldn't be able to remember me.

23 Q. Well, but I'm not asking them if they
24 remember you. I'm asking if they have any records

1 of you. They have nothing in writing about you.

2 Would that surprise you?

3 A. No.

4 MS. MARTINEZ: Objection to the form of
5 that question.

6 You can answer.

7 A. That would not surprise me at this
8 time.

9 Q. Is it possible that when you wrote that
10 you had not applied to The Exit Program?

11 A. I don't -- I don't recall at this time.
12 I don't think so. Why would I tell it to the
13 judge that The Exit Program was going to call the
14 judge? It just doesn't seem productive.

15 Q. Can you flip to Bates No. 3473?

16 A. 3473?

17 Q. Yes, please. Now, you earned a number
18 certificates for programs that you participated in
19 while in prison, correct?

20 A. That's correct.

21 Q. And these are some of those
22 certificates, correct?

23 A. That is correct.

24 Q. All right. So this one is a

1 certificate for anger management. Do you see
2 that?

3 A. I see it.

4 Q. And the next one, the next page, it
5 says that Horton has successfully
6 delivered -- strike that.

7 It says that Horton has successfully
8 completed the anger deliveries. Do you see
9 that?

10 A. I do see it.

11 Q. Do you know what the word
12 "deliverations" means?

13 A. I do not recall at this time.

14 Q. Do you recall taking anger management
15 classes?

16 A. Do I remember every class that I took
17 while I was locked up for 16 years --

18 Q. No, that was not my question.

19 A. -- for over 16 years?

20 Q. That was not my question.

21 A. I do not remember every class that I
22 took.

23 Q. I did not ask if you remembered every
24 class. I asked if you remembered taking anger

1 management classes.

2 A. I don't remember taking them.

3 Q. Do you remember any prison officials
4 telling you that you needed to take anger
5 management classes?

6 A. Yeah, on more than one occasion I can
7 remember them telling me that.

8 Q. Who told you that?

9 A. A couple of different officials
10 throughout the time.

11 Q. What were the circumstances?

12 A. Well, being on -- being wrongfully
13 incarcerated and being in the type of environment
14 that prison is, I didn't always respond to
15 corrections favorably, and that might be a
16 circumstance where one of the officials or
17 officers might, you know, try to further correct
18 me and saying that I needed to remain calm, get
19 ahold of myself. It was very difficult to do in
20 my younger years in the beginning of my wrongful
21 incarceration, but I learned some things along the
22 way to help control my anger.

23 Q. Did you have an anger problem when you
24 were younger?

1 A. I don't think --

2 MS. MARTINEZ: Objection. Form.

3 You can answer.

4 THE WITNESS: Sorry.

5 MS. MARTINEZ: It's okay.

6 THE WITNESS: I did it again. Sorry.

7 A. I wouldn't classify -- classify myself
8 as one who had an anger problem. We've all had
9 issues dealing with emotions and processing
10 emotions. I've seen people with anger problems
11 and they made some bad mistakes. So as I compare
12 myself to somebody like that, I don't -- I
13 wouldn't say it was a problem. I had issues here
14 and there.

15 Q. Do you recall an incident where when
16 you were in prison the guards claimed that they
17 were restraining a violent inmate, and while they
18 were in the process of doing that, you ran up and
19 kicked the inmate in the head? Do you remember
20 that incident?

21 A. Yes, I do remember that incident.

22 Q. What happened?

23 A. Actually, it's one of my proudest
24 moments during for my wrongful -- during my

1 wrongful incarceration.

2 In prison there are -- there are sports
3 in prison. So this all stemmed from a basketball
4 game. And a friend of mine had got into a verbal
5 altercation with another inmate. And the inmate
6 left and came back with a knife.

7 Now, in prison, you can buy a knife for
8 \$10. I've seen people get assaulted, I've seen
9 people get killed with prison knives.

10 So when the gentleman came back with a
11 knife -- my friend, he was playing a basketball
12 game -- so he began running towards my friend with
13 the knife to do bodily harm.

14 Well, my friend ran as much as he
15 could, but when the altercation got close enough,
16 myself and another individual jumped into the
17 altercation to try to restrain the individual and
18 get the knife from him.

19 So, you know, as you can imagine in
20 prison, there's -- chaos ensues. The officers
21 come, they begin beating us with the batons,
22 macing us, just restraining us, you know. And so
23 once they put us in handcuffs and escort -- escort
24 each individual out of the gym and place us in the

1 hole, the next day that's when I hear the ticket
2 that we referred to earlier.

3 So on the ticket, I get confused with
4 the gentleman who kicked the person with the knife
5 in the head, but -- so while I'm trying to explain
6 myself and tell them, hey, you got the wrong guy,
7 I'm the hero here, you know, you should be -- you
8 should be giving me applause because I actually
9 saved the person's life. But they weren't trying
10 to hear it like that.

11 And in prison, I'm not going to point
12 out the person who actually kicked the young man
13 in the head because if I'm labeled -- because then
14 I will be labeled a snitch. So whenever I get out
15 of the hole from this incident, I will be labeled
16 as a snitch. And snitches don't have a lot of
17 respect in prison, they're treated very badly by
18 the inmates and the officers, and I didn't want
19 that on my head.

20 So what I did was I pleaded my case,
21 they didn't believe me, so I just went ahead and
22 spent my time in the hole which was about 75 days.
23 So I spent 75 days in the hole. Me and my wife
24 had some tough times during that period. I almost

1 lost my marriage. And I did the right thing.

2 Q. Just so I'm clear, somebody did kick
3 the inmate in the head, correct?

4 A. Yes, somebody definitely kicked him in
5 the head.

6 Q. Did you see it happen?

7 A. No. I was trying to get the knife out
8 of the individual's hand.

9 Q. Okay. But the guards, who were also
10 trying to restrain that inmate, said that it was
11 you who kicked him in the head, correct?

12 A. That's correct.

13 Q. All right. Same question for them that
14 I asked you about Rick McClanahan. In your
15 opinion, were they wrong or were they lying?

16 A. In my opinion, the officers were
17 incorrect. It was so much chaos going on, they
18 made a mistake. But my outlook was I'm not going
19 to point the finger at the guy who did it, it's
20 prison, I'm -- I'm already in prison, it doesn't
21 matter if you put me on the top of the prison or
22 the bottom of the prison. So I went ahead and
23 spent the 75 days in the hole even though I was
24 the hero.

1 Q. Now, I thought you said a minute ago
2 that this almost -- that the separation almost
3 cost you your marriage. You did, in fact, get
4 divorced from Janette at some point; is that
5 right?

6 A. That is correct.

7 Q. What happened?

8 A. Well, from the beginning, I was
9 sentenced to serve 23 years, and even though I was
10 innocent, even though Janette knows for a fact and
11 believes in my innocence, it's a -- it's a
12 heavy -- it takes a heavy toll on a marriage just
13 being gone or potentially being gone for so long.

14 So I do not blame Janette for not being
15 able to stick there with me and be at my side.
16 You know, she's actually a pretty good person, a
17 big heart, and things just didn't work out for us.
18 But when The Ohio Innocence Project got me out in
19 2022, we got remarried five days after that.

20 Q. But before we get to that, there was a
21 relationship in between there, correct?

22 A. Yeah. Yeah. There was a relationship
23 in between that. I'm a decent looking guy and I
24 like to interact with the opposite sex, so, yeah,

1 there was a relationship in between there.

2 Q. And who was that relationship with?

3 A. That relationship was with Kawanna
4 Harris.

5 Q. And you knew Kawanna Harris previously,
6 correct?

7 A. I went to high school with her.

8 Q. Between the time you left high school
9 and the time that this relationship with her
10 began, were you in communication with her?

11 A. I -- I do not recall at this time. I
12 don't -- I don't remember being in contact with
13 her.

14 Q. How did you get back in contact with
15 her?

16 A. Honestly, through a prison cell phone.

17 Q. Did you reach out to her?

18 A. I believe so.

19 Q. When you say a prison cell phone,
20 is that -- that's a contraband cell phone?

21 A. Yes, sir.

22 Q. How did you get those?

23 A. COs would bring them in. They
24 don't -- you know, there's a lot of bad correction

1 officers in there and they'd bring stuff in.

2 Q. What other types of contraband were you
3 caught with during your time in the Ohio prison
4 system?

5 A. Well, I was just trying to survive. I
6 was caught with various different kinds of
7 contraband. Cell phones, drugs. I was just
8 trying to survive in there.

9 Q. What kind of drugs?

10 A. Something called a Suboxone strip.

11 Q. What is a Suboxone strip used for?

12 A. I believe -- let me think for a second.
13 I believe it's to help -- help people get over
14 their heroin addiction.

15 Q. How did you come to have possession of
16 Suboxone strips?

17 A. Like I said before, the correction
18 officers bring drugs in the prison. It doesn't
19 just magically appear in there.

20 Q. No, I understand that they bring them
21 in, but that doesn't mean they hand them out to
22 everybody. How did it come about that they handed
23 it to you?

24 A. I don't recall.

1 Q. Were you selling them?

2 A. I was just doing what I had to do to
3 survive.

4 Q. I don't know what that means. How does
5 having the Suboxone strips help you survive in
6 prison?

7 A. Prison is a -- it's a -- it's a -- it's
8 an environment in and of itself. They can be used
9 for -- to barter with, to get high on, it's a form
10 of currency.

11 Q. Did you use them to barter?

12 A. I -- I can't recall at this time.

13 Q. Did you use them to get high?

14 A. I'm confident I didn't use them to get
15 high. I'm scared of heroin.

16 Q. Well, it's not heroin, though, right?
17 Suboxone is a different chemical.

18 A. Yeah. It's close enough.

19 Q. Were there other times that you were
20 caught with drug contraband?

21 A. Yes. Yes.

22 Q. Tell me what happened.

23 A. The -- over 16 years, let's see. There
24 was an incident where I worked in the laundry room

1 and drugs were found in the laundry room. And,
2 once again, I couldn't point the finger of whose
3 drugs they were. I was just getting off my shift.
4 And they blamed me and said everything was mine.

5 And I -- I disputed it, but I -- once
6 again, I couldn't say whose drugs they were
7 because then I would be labeled a snitch and I
8 didn't want anybody to kill me or harm me in any
9 way, so I ended up doing about 100 days -- 105
10 days in the hole for that one. And that was
11 pretty rough mentally, but, you know, I just
12 couldn't go around -- I just couldn't say whose
13 drugs they was. It was -- that was hard right
14 there.

15 Q. What drugs --

16 A. Once --

17 Q. I'm sorry. What drugs were they?

18 A. I can't recall at this time. It was a
19 lot.

20 Q. A lot of different kinds of drugs or a
21 large quantity of drugs?

22 A. I think it was a lot of different
23 kinds.

24 Q. Was it a large quantity as well?

1 A. No.

2 Q. Were you the only inmate in the laundry
3 at the time of the search that turned up those
4 drugs?

5 A. No, no.

6 Q. Then why did the suspicion fall on you
7 instead of the other inmates in the laundry?

8 A. Probably because I'm a black man.

9 Q. The other inmates who were there were
10 white?

11 A. Yeah. I remember that they didn't find
12 anything in my bed area, they didn't find anything
13 on my person, so, you know, I can appeal it, but,
14 you know, the appeal success rate is kind of low
15 in prison, so I was just doing what I had to do to
16 survive. Keep my mouth shut.

17 Q. Let me shift gears on you. We have
18 already looked at the first motion for judicial
19 release, correct?

20 A. That's correct.

21 Q. The court did not grant that motion,
22 correct?

23 A. That's correct.

24 Q. You filed a second motion for judicial

1 release; is that correct?

2 A. I don't recall if that's how it went.

3 - - - - -

4 Thereupon, Exhibit 29 is marked for
5 purposes of identification.

6 - - - - -

7 Q. I'll hand you what I've marked as
8 Exhibit 29. I'll represent that this is a motion
9 for judicial release, and there's a certificate of
10 service on the very back page, with a date of
11 February 19th, 2019. Do you see that?

12 A. Yes.

13 Q. And that's your signature underneath
14 it?

15 A. Yes.

16 Q. Did you file this document with the
17 court?

18 A. Yes.

19 Q. And it has a number of components,
20 right? It has certificates again. It has letters
21 from supporters. Right? Do you see that?

22 A. Give me one second.

23 Q. Sure.

24 A. Okay. What was the question again?

1 Q. The question was, did you submit this
2 motion to the court?

3 A. Yes.

4 Q. Did you assemble all of the pieces
5 inside it?

6 A. No. Not all by myself. I had some
7 help with this.

8 Q. Okay. Tell me the process by which
9 this was put together.

10 A. I got some help from a guy in the law
11 library. And this looks like this was -- I want
12 to say this was all the same thing.

13 Q. What do you mean all the same thing?

14 A. Where it was denied, and I appealed.
15 But I'm not 100 percent sure.

16 Q. Okay. Well, let's go through this a
17 little bit because it begins, you see on the
18 second page, with a memorandum in support?

19 A. Yeah.

20 Q. This is a statement that you wrote
21 possibly with support from somebody else in the
22 prison?

23 MS. MARTINEZ: Objection. Form.

24 You can answer.

1 Q. Is that correct?

2 A. Yes.

3 Q. And it ends on page 8, with your
4 signature. Correct?

5 A. It -- I see on page 8, my signature is
6 there.

7 Q. Okay. And then following that are a
8 series of the certificates that we had talked
9 about before. Do you see those?

10 A. I do see the certificates.

11 Q. And you would have had those in your
12 possession in prison, correct?

13 A. Yes.

14 Q. And moving deeper into the packet, go
15 to Bates No. 3785. Do you see that there's a
16 two-page letter there?

17 A. Yes.

18 Q. And that is a letter to Judge Colleen
19 O'Donnell from you, correct?

20 A. Let me read it. Yes.

21 Q. So this is also something that you
22 would have had in your possession to send to the
23 court, correct?

24 A. I believe so.

1 Q. Okay. Then we turn to Bates No. 3787.
2 And this is a letter written by Furquan
3 McDonald -- I'm sorry -- Furquan McDougald. Do
4 you see that?

5 A. I do.

6 Q. And Furquan is spelled F-u-r-q-u-a-n.
7 Who is Furquan McDonald [sic]?

8 A. Furquan McDougald is a -- he's a
9 pretty -- pretty good guy. He's kind of a
10 business mentor to me now and someone who -- who
11 was there for me and supported me and
12 always -- well, he didn't support me -- always
13 promised a job opportunity when and if -- whenever
14 I got out of prison.

15 Q. Now, did Mr. McDougald write this
16 letter?

17 A. I'm not sure who wrote the letter.

18 Q. What do you know about this letter?

19 A. I don't recall at this time. I know
20 that I was filing paperwork, trying to get out of
21 prison as soon as possible. I was locked up for a
22 crime I didn't commit.

23 Q. Did you ask Mr. McDougald to write a
24 letter for you?

1 A. I do not recall.

2 Q. Do you recall him sending you a copy of
3 a letter of that he had written in order to attach
4 it to this pleading?

5 A. I do not recall.

6 Q. Did you sign this letter in Furquan
7 McDougald's name?

8 A. No.

9 Q. The next page, 3789, is a letter from
10 Janette Horton. Do you see that?

11 A. I found it.

12 Q. Is that Janette's signature?

13 MS. MARTINEZ: Objection. Foundation.
14 You can answer.

15 A. I'm not sure what my wife's signature
16 looks like.

17 Q. How did you come to have possession of
18 this letter?

19 A. I'm not sure at this time how I came
20 to --

21 Q. Do you --

22 A. It was so long ago.

23 Q. Do you remember asking any of these
24 people to write letters for this?

1 MS. MARTINEZ: You can look through it
2 if you have to.

3 A. I do remember trying to get support,
4 but the signature is just --

5 Q. What do you remember about your efforts
6 to get support?

7 A. It was -- it was kind of rough. I
8 remember it was rough.

9 Q. In what ways was it rough?

10 A. Just trying to get this many
11 different -- this looks like a few different
12 letters. Just trying to get everybody on the same
13 page that was the difficult part because people
14 out here they have full-time jobs, full-time
15 families. I can remember it being difficult. I'm
16 not sure.

17 Q. Did you ask them to send the letters to
18 you or did you ask them to send them to the court?

19 A. I can't -- I can't recall where I had
20 them send them to.

21 Q. I'm going to skip ahead a little bit to
22 3792 and 3793. And this purports to be a letter
23 to Judge Colleen O'Donnell from Kawanna Harris.
24 Do you see that?

1 A. I do see it.

2 Q. And is this a letter that you submitted
3 as part of this package?

4 A. Let me look over it for a second.
5 This -- this -- this letter does look familiar.
6 She's saying some really nice things about me.

7 Q. Did you submit this letter to the court
8 as part of this motion?

9 A. I think that I did.

10 Q. Did you write this letter?

11 A. No.

12 Q. Who did?

13 A. It says here that Kawanna Harris wrote
14 the letter.

15 Q. Have you read Kawanna Harris's
16 deposition?

17 A. I have not had a chance to read it.

18 Q. I will represent to you that Kawanna
19 Harris testified that that is not her signature
20 and she did not write this letter.

21 MS. MARTINEZ: I'm going to --

22 Q. Can you explain who else could have
23 written this letter and signed it if she said she
24 did not?

1 MS. MARTINEZ: I'm going to object as a
2 mischaracterization of the evidence in the record.

3 You can answer.

4 A. No, I cannot explain. If that's true,
5 I can't explain it. It's a beautifully written
6 letter.

7 Q. Speaking of Kawanna Harris, she has
8 children; is that right?

9 A. That is correct.

10 Q. Are they your children?

11 A. No. The children that Ms. Harris has
12 are not my biological children.

13 Q. Do you consider them your children?

14 A. No, I do not.

15 Q. Do you know if she considers you a
16 parental figure for them?

17 A. At this date and time today, I'm pretty
18 sure she does not consider those children my
19 children or stepchildren or --

20 Q. To your knowledge has she ever
21 considered you as a father figure for her
22 children?

23 A. To my knowledge, when we were together,
24 she considered me as a role model for her

1 children.

2 Q. I didn't ask a role model. I asked if
3 she considered you a father figure.

4 A. When we were together, I'm pretty sure
5 that she considered me those things.

6 Q. And during that time did you consider
7 yourself a father to those children?

8 A. A stepfather maybe. I was a long
9 way -- she'd come to visit me. I wouldn't let her
10 bring the children. I didn't believe prison
11 was -- maybe a stepfather, but not a father.

12 Q. What would be the difference between a
13 stepfather and a father?

14 A. Aside from -- from the obvious, you
15 know, just -- just those are not my children, so
16 at the end of the day they're not my biological
17 children where I could request or make rulings.
18 Those -- those -- those judgment calls should be
19 up to the father, the biological father.

20 Q. By the way, at the time that you filed
21 this motion, if it had been granted, did you have
22 a plan as to where you were going to live?

23 A. That's a good question. Yes.

24 Q. What was your plan?

1 A. In 2019, I -- I would have preferred
2 probably to go to a halfway house, get a job, save
3 up some money and start my life.

4 I was -- in 2019, I was back with
5 Janette and -- yeah. I mean, in the perfect
6 world, maybe go to a halfway house, get a job,
7 save up some money.

8 You know, when I was released from
9 prison, you know, when The Ohio Innocence Project
10 got my conviction overturned and I was released
11 from prison, I was kind of thrown out here. I
12 applied for food stamps, but since I was
13 wrongfully convicted, I don't -- I don't qualify
14 for help from the government, so I really had to
15 get out here and find a job and -- and ride the
16 bus back and forth to work, you know, and just,
17 you know -- if this would have happened, I would
18 have went a different route, you know, in an ideal
19 situation.

20 Q. Let me ask you the question in a
21 different way. In 2017, when you filed the first
22 motion, did you have conversations with Janette
23 about coming to live with her if you were
24 released?

1 A. Yes.

2 Q. In 2017, did you have conversations
3 with Kawanna about coming to live with her if you
4 were released?

5 A. Yes.

6 Q. Was it your impression that they both
7 thought you might come live with them?

8 A. They may have thought that, you know,
9 they may have thought that. I'm not quite sure on
10 the actual date when me and Kawanna split and
11 parted ways. We continued to stay in contact, but
12 it just -- unfortunately it didn't work out with
13 me and Ms. Harris.

14 Q. Well, did you have a plan for how you
15 were going to finesse that if you were released
16 and had to live with one or the other?

17 MS. MARTINEZ: Objection. Form.

18 You can answer.

19 A. That's -- that's a good question.
20 Looking back, I'm not sure exactly what I was
21 going to do. Like I said, in an ideal situation,
22 I would have went to a halfway house, got myself
23 together before I tried to be a husband or a
24 father.

1 Q. You've talked a great deal about prison
2 and how difficult it is. And you've talked about
3 how plentiful knives are. Have you ever been
4 stabbed?

5 A. I have been stabbed, but not in prison.

6 Q. How many times have you been stabbed?

7 A. One time.

8 Q. When and where?

9 A. It was -- young -- during my younger
10 years, maybe about 8 or 9, in my chest.

11 Q. You were 8 or 9 years old?

12 A. Yeah.

13 Q. Who stabbed you in the chest?

14 A. I can't remember exactly who it was.
15 It was a kid from the neighborhood.

16 MR. EPSTEIN: Let's take a break.

17 MS. MARTINEZ: Okay.

18 THE VIDEOGRAPHER: We are off the
19 record. The time is 5:54.

20 (A short recess is taken.)

21 THE VIDEOGRAPHER: This marks the
22 beginning of Media No. 7. We are back on the
23 record. The time is 6:06.

24 BY MR. EPSTEIN:

1 Q. Mr. Horton, just a few quick
2 follow-ups. We were speaking a few minutes ago
3 about your possible plans in 2017 if you were
4 released. And there was the possibility of living
5 with Janette, and you also had conversations about
6 living with Kawanna. Do you recall that
7 testimony?

8 A. I do recall that testimony.

9 Q. Did Janette know that you were having
10 those conversations with Kawanna?

11 A. No, she did not.

12 Q. Did Kawanna know that you were having
13 those conversations with Janette?

14 A. No, she didn't. She -- she did not.

15 Q. Can you flip back to Exhibit 27, it's
16 the handwritten notes. If you turn back to Bates
17 No. 48, this is the section we went through
18 together that has various descriptors along with
19 the name Richard Diggs. Do you recall that?

20 A. I recall you and I talking about it.

21 Q. Yes. My question for you is, do you
22 see anything in here, in the sections that we
23 talked about, do you see anything that suggests
24 Riccardo Diggs might have been involved in the

1 Loew Street robbery?

2 A. Do I see anything -- could you repeat
3 the question?

4 Q. Sure. The name Richard Diggs appears,
5 correct?

6 A. Correct.

7 Q. And I've already asked you to assume
8 that Richard Diggs was in prison at the time of
9 the robbery. Assuming that that's the case, do
10 you see anything that suggests that actually
11 Riccardo Diggs was the person who committed the
12 robbery?

13 MS. MARTINEZ: I'll just put on a
14 belated objection to form and foundation.

15 You can answer.

16 A. I -- I do.

17 Q. You do? And what is that?

18 A. The discrepancy I see may be the
19 height.

20 Q. Well, I understand -- well, let me back
21 up. What do you mean by the discrepancy about the
22 height?

23 A. I attended Everett Middle School with
24 Richard Diggs and Riccardo Diggs. Riccardo Diggs

1 was a little older, but he was short -- shorter.

2 Q. He was shorter, so --

3 A. Shorter than Riccardo -- shorter than
4 Richard Diggs. Sorry.

5 Q. Do you know how tall he was?

6 A. No, sir, I do not.

7 Q. Okay. So I understood you to say that
8 maybe that notation of 5'9" to 6' does not suggest
9 you, because you're an inch taller than that,
10 correct? That was -- that was your position?

11 A. That's correct.

12 Q. But how does that lead you to Riccardo
13 Diggs?

14 A. You asked me did I see anything on this
15 paper that would be anywhere in the realm of a
16 description of Riccardo Diggs, so that's how it
17 led me to it. Riccardo Diggs is shorter.

18 Q. I see. Well, do you know how tall
19 Riccardo Diggs is?

20 A. No, sir, I do not.

21 Q. Anything else in here that might make
22 someone think Riccardo Diggs is the person who did
23 this?

24 A. No, sir.

1 Q. Do you know anything about Riccardo
2 Diggs's criminal history?

3 A. I'm not sure how to answer that
4 question. Not at this time.

5 Q. I don't understand the answer. Was
6 there a time when you knew something about his
7 criminal history?

8 A. Well, we grew up in a pretty small
9 neighborhood, so I can remember the brothers going
10 to jail for drug -- drugs or something like that
11 back in the '90s.

12 Q. Do you know anything more recent than
13 that?

14 A. Not at this time I don't. I don't
15 recall.

16 Q. Do you know where Riccardo Diggs is
17 today?

18 A. I believe he's deceased.

19 Q. Do you know where Richard Diggs is
20 today?

21 A. No, I do not know where Richard Diggs
22 is today.

23 Q. We -- sitting here today, do you have
24 any personal knowledge that suggests that Richard

1 Diggs was involved in the robbery?

2 A. Not at this time.

3 Q. Sitting here today, do you have any
4 knowledge that Riccardo Diggs was involved in the
5 robbery?

6 A. Not at this time.

7 Q. We talked previously about police
8 misconduct and you spoke specifically about these
9 notes that you believe were concealed from you.
10 Do you recall that testimony?

11 A. I recall stating that some notes were
12 kept from me during my trial testimony, but I'm
13 not sure if these are the notes.

14 Q. Okay. That's fair. Apart from the
15 notes that you believe were concealed, what other
16 instances of police conduct do you believe there
17 were in this case?

18 MS. MARTINEZ: Objection to the form.
19 Do you mean misconduct or conduct in general?

20 MR. EPSTEIN: I thought I said police
21 misconduct.

22 MS. MARTINEZ: I just heard conduct. I
23 just want to make sure.

24 MR. EPSTEIN: I'm sorry if I misspoke.

1 BY MR. EPSTEIN:

2 Q. What examples of police misconduct were
3 there in your criminal case?

4 A. I'm not sure at this time. I'm not a
5 lawyer.

6 Q. Well, you don't have to be a lawyer.
7 You have an opinion about whether there was
8 misconduct. What is your opinion based on?

9 A. I believe there was misconduct.

10 Q. Can you cite me any examples of
11 something that an officer did or failed to do that
12 was improper?

13 A. Beside the instances that I've already
14 stated?

15 Q. Well, in addition to the notes. That's
16 the one. What else?

17 A. I'm not sure at this time.

18 Q. Have you ever been sure?

19 MS. MARTINEZ: Objection to form.

20 You can answer.

21 A. No, I have not. I'm not a lawyer. I'm
22 not a detective. The Ohio Innocence Project is
23 the organization that got me out of prison, so I
24 remember when they submitted the evidence request,

1 I looked over the paperwork, and -- but I don't
2 know of any other instance at this moment.

3 Q. So is it fair to say that your belief
4 that there was police misconduct in this case is
5 based entirely upon what the lawyers have told
6 you?

7 MS. MARTINEZ: Objection to form.
8 You can answer.

9 A. Yeah. And they're The Ohio Innocence
10 Project. They're pretty good at what they do.

11 Q. Do you have an understanding of why you
12 were released from prison?

13 A. Yes, I do.

14 Q. What is that understanding?

15 A. Well, first of all, I believe it
16 was -- I got to thank the good Lord above for
17 being released from prison for a crime I didn't
18 commit.

19 And I believe that when The Ohio
20 Innocence Project submitted the records request,
21 they found out that some stuff was missing that I
22 wasn't able to have with me during my trial. And
23 the DA -- the DNA evidence to further submit the
24 fact that I did not commit this crime. And

1 that -- and once The Ohio Innocence Project
2 submitted that evidence, that's why the judge
3 overturned my conviction and granted me a new
4 trial.

5 Q. Tell me about the DNA evidence. What's
6 your understanding of that?

7 A. My understanding of that is very
8 limited. What I can remember today at this point
9 is they used semen sperm to get a DNA sample off
10 of a fingerprint from the crime scene that
11 happened so long ago, and the DNA evidence did not
12 match with my DNA evidence and that's essentially
13 what cleared me of these heinous charges.

14 MR. EPSTEIN: Can you read that back?

15 (The record is read back as requested.)

16 THE WITNESS: (Indicating.)

17 THE REPORTER: Yes. Did I mishear --

18 MR. EPSTEIN: Did she misunderstand the
19 word?

20 THE REPORTER: Did I misunderstand the
21 word?

22 THE WITNESS: If you did, it's not a
23 big deal. Salmon sperm.

24 MS. MARTINEZ: Like the fish.

1 THE REPORTER: Salmon sperm.

2 MS. MARTINEZ: Yeah.

3 THE WITNESS: Yeah.

4 THE REPORTER: Thank you.

5 THE WITNESS: That's my fault. I'm
6 sorry.

7 THE REPORTER: That's my fault. Sorry.
8 Thank you for correcting me.

9 BY MR. EPSTEIN:

10 Q. What is that?

11 A. What -- can you repeat the question?

12 Q. I want to make sure I'm understanding
13 what you're saying correctly. Are you actually
14 saying salmon sperm?

15 A. I am saying salmon sperm.

16 Q. Okay. All right. And it's your
17 understanding that the DNA evidence related to
18 some fingerprints that they had found?

19 A. That is my understanding.

20 Q. And do you know where those
21 fingerprints were found?

22 A. Those fingerprints were taken from the
23 crime scene.

24 Q. Can you be more specific about where

1 they were found?

2 A. A foldout couch or a foldout bed from
3 the crime scene.

4 Q. Do you know anything about testing on a
5 shell casing?

6 A. I misspoke. It was fingerprints from
7 the shell casing. I misspoke.

8 Q. All right. Then let's back up. What
9 is your understanding about the shell casing?

10 A. The -- the fingerprint -- they used the
11 salmon sperm to get the DNA off the shell casing,
12 not the bed. Oh, I --

13 Q. That's okay.

14 A. I was bound to mess up sooner or later.

15 Q. That's okay. I'm still stuck on salmon
16 sperm.

17 A. It's okay.

18 Q. What is your understanding of what the
19 DNA test on the shell casing showed?

20 A. My understanding is that it completely
21 exonerated me. And I'm thankful for that. I'm
22 thankful for the work The Ohio Innocence Project
23 did. I'm thankful for the judge that recognized
24 that throughout even though all these years --

1 Q. Okay. Excuse me --

2 A. -- had went by --

3 Q. -- Mr. Horton.

4 A. -- it wasn't me.

5 Q. I appreciate that. But I asked you a
6 simple question, what's your understanding of what
7 it showed, and you said it completely exonerated
8 you, correct?

9 A. That's correct.

10 Q. What does the word "exonerate" mean?

11 A. To my limited understanding, it means
12 that it set me free from the chains of bondage of
13 being incarcerated for this crime that I didn't
14 commit. It was a -- it's -- it's a glorious word.
15 It's a -- it's a word of extreme vindication. I
16 get to, you know -- it was so -- so joyful just,
17 you know, telling my children that I've been
18 exonerated and I'm coming home.

19 Q. Okay. But I want to be clear because
20 words matter. Your understanding of exoneration
21 means it got you released; is that correct?

22 A. To my limited understanding, yes.

23 Q. Okay. Are you using exoneration in the
24 sense of it affirmatively proved you did not

1 commit the crime?

2 A. That's a good question. Yes, I am
3 using that word.

4 Q. So you believe that the DNA evidence
5 definitively proved that you did not commit the
6 crime; is that correct?

7 A. I do believe that.

8 Q. How did it prove that?

9 A. I can't answer that question. I'm not
10 a scientist. I've explained the way that The Ohio
11 Innocence Project and trained scientists obtained
12 the DNA from a shell casing that was from the
13 crime scene.

14 Q. I'm not asking you to explain how they
15 got it and how they tested it. I'm asking you to
16 explain to me how it proves that you're innocent
17 and somebody else committed the crime.

18 A. I'm not sure how to answer the
19 question. I just -- I just said it wasn't -- it
20 proved that my DNA was not on the shell casing
21 used to commit this crime. Somebody else's DNA
22 was on there.

23 Q. Okay. So that DNA testing shows that
24 maybe somebody else touched the shell casing,

1 correct?

2 A. No, I believe it shows somebody else
3 committed the crime.

4 MS. MARTINEZ: A belated form
5 objection.

6 Q. Is it possible to fire a gun without
7 touching the shell casing?

8 MS. MARTINEZ: Objection to foundation.
9 You can answer.

10 A. I don't see a way it would be possible.

11 Q. Do you have much experience with guns?

12 A. No, I do not.

13 Q. Have you ever owned a gun?

14 A. No, I do not.

15 Q. Have you ever fired a gun?

16 A. Have I ever fired a gun? I have fired
17 a gun.

18 Q. Under what circumstances?

19 A. Celebrating New Year's Eve. Something
20 stupid like that.

21 Q. Just firing into the air?

22 A. Yeah.

23 Q. What kind of --

24 A. Just doing something stupid.

1 Q. What kind of gun?

2 A. I can't recall at this time.

3 Q. When was that?

4 A. A long, long time ago.

5 Q. Okay. So you have fired a gun, we've
6 established that. I want you to assume that I
7 loaded a gun, handed it to you, and you fired it.
8 Is that a possible thing that can happen?

9 A. Is it possible? Anything is possible.

10 Q. So the fact that the fingerprint on the
11 shell casing at the crime scene, you could argue,
12 proved you didn't load the gun, but it's still a
13 possibility that you fired the gun; isn't that
14 correct?

15 MS. MARTINEZ: Objection. Form.

16 You can answer.

17 A. No, that's not -- that's not what got
18 me here. What got me here is whoever fired the
19 gun left their DNA on the shell casing, and
20 that's --

21 Q. Well, did --

22 A. -- the way it boils down to. That's
23 the only reason I'm here today.

24 Q. Well, did the judge declare you

1 innocent?

2 A. That's a --

3 Q. Or did she --

4 A. -- good question.

5 Q. Or did she just order a new trial at
6 the end of which you might have gone back to jail?

7 A. That's a good question. I'm not sure
8 how to answer that question because I don't know
9 exactly -- I can't remember at this time
10 exactly -- man, that's a good question.

11 Q. Okay. I take it then you don't know
12 why the second trial never went forward; is that a
13 fair statement?

14 A. Not at this time. I can't definitively
15 say.

16 Q. Do you recognize the number
17 614-404-8458?

18 A. What exhibit is that?

19 Q. I wasn't asking you to look for an
20 exhibit. I was giving you a phone number and
21 asking you if you recognized it.

22 A. What was the phone number again?

23 Q. Yeah. 614-404-8458.

24 A. 8458. I do not remember that phone

1 number.

2 Q. You don't recognize that as a phone
3 number that you may have used at one time?

4 A. I don't recognize that phone number.

5 Q. How many attorneys represented you at
6 your criminal trial?

7 A. Two attorneys. Two attorneys
8 represented me at trial. Myron Shwartz and his
9 granddaughter Alissa Holfinger, I believe her name
10 is.

11 Q. How much did you pay Mr. Shwartz?

12 A. I paid Mr. Shwartz over \$5,000.

13 Q. Did you pay the money or did somebody
14 pay the money for you?

15 A. I had a little help from my fiancée,
16 but for the most part, I paid the money.

17 Q. Do you know the name Rollin Hunter?

18 A. Yes. I do know the name Rollin Hunter.

19 Q. Who is Rollin Hunter?

20 A. Rollin Hunter is a childhood friend.

21 Q. Did you go to school with Rollin
22 Hunter?

23 A. Yes. Rollin Hunter also attended
24 Centennial High School.

1 Q. Do you have any communication with
2 Rollin Hunter as an adult?

3 A. That's a good question. Yes.

4 Q. Tell me about your contact with Rollin
5 Hunter as an adult.

6 A. Rollin Hunter is a sort of a business
7 mentor in a sense. I would consider him an
8 associate, not quite a friend, but he's someone
9 that I went to school with back in the days and
10 somebody I went to high school with.

11 Q. What does he do for a living?

12 A. I believe Rollin works at Orkin Pest
13 Control.

14 Q. I think you testified you consider him
15 something of a mentor; is that right?

16 A. Yes.

17 Q. Why?

18 A. He has a pretty successful career
19 working over at Orkin, and somebody I might on
20 occasion ask for advice.

21 Q. Does Rollin Hunter have a criminal
22 record of any kind to your knowledge?

23 A. To my knowledge at this time, I
24 don't -- I have no idea.

1 Q. Do you have a car now?

2 A. Yes.

3 Q. When you --

4 A. Excuse me. I'm sorry. Actually, I
5 have a truck.

6 Q. Fair enough. When did you get the
7 truck?

8 A. At the beginning of last year. It
9 hasn't been a full year yet.

10 Q. Before that, did you have a vehicle or
11 were you using public transportation?

12 A. Before that, I actually had a van. I
13 had a work van. A Dodge van.

14 Q. Did you ever use public transportation?

15 A. I have used it, like I said, when I
16 first came out of prison. I didn't have a valid
17 driver's license, I didn't have a mode of
18 transportation, so, yeah, I would frequently ride
19 the bus. But as I, you know, started to save and
20 learn more about how to use credit, it's been a
21 while since I've been on the bus, but I don't mind
22 riding the bus.

23 Q. Do you know what routes you would have
24 taken?

1 A. Taken where?

2 Q. Which bus routes?

3 A. To where?

4 Q. Well, that's what I'm asking. Every
5 bus route in Columbus has a number. Do you know
6 what bus routes you would have taken?

7 A. Yes. Depending on where I'm going.

8 Q. Where would you have been going?

9 A. Riding the bus, probably back and forth
10 to work.

11 Q. Where was work at that time?

12 A. Work is -- when I first came home from
13 prison, work was -- I worked for a company named
14 United Alloys & Metals, and that's located on
15 Joyce Avenue in Columbus, Ohio.

16 Q. And where were you living at that time?

17 A. At that time I was living on -- at 1073
18 Urana.

19 Q. Can you spell that?

20 A. Urana is U-r-a-n-a Avenue.

21 Q. Do you know which bus you took to get
22 back and forth to work?

23 A. Man. Man, that's a tough question.

24 I'm -- I do -- I cannot recall. Sorry.

1 Q. Did you ever see Rhonda Curry on the
2 bus?

3 A. No.

4 Q. Have you seen Rhonda Curry since you've
5 been out of prison?

6 A. I have not seen Rhonda Curry since I've
7 been out of prison.

8 Q. Do you know Kim Curry?

9 A. I do not recall Kim Curry.

10 Q. Back in 2004, did you owe anybody any
11 money?

12 A. Back in 2004, did I owe anybody any
13 money? Honestly, I owed the City of Columbus for
14 unpaid traffic tickets, but that's all I can
15 remember at this time.

16 Q. And speaking of owing money, is it
17 correct that before you went to prison in West
18 Virginia, you had a mortgage on a house?

19 A. That would be incorrect.

20 Q. Have you ever had a mortgage on a
21 house?

22 A. I have one now.

23 Q. Is that in your name or jointly with
24 Janette?

1 A. That would be in my name.

2 Q. Where do you have bank accounts?

3 A. Where do I have -- I want to try and
4 get this correct. I have a bank account at KEMBA
5 bank. And I have my mortgage through U.S. Bank.
6 And I have a -- and I have a bank account at
7 Huntington Bank. Yeah.

8 Q. Which of those accounts are in your
9 name and which are joint with Janette?

10 A. All those accounts are in my name. I
11 have a savings account at Huntington Bank with my
12 wife.

13 Q. Which account do you deposit your
14 paychecks into?

15 A. I deposit my paychecks into a
16 Huntington account. Huntington is also the bank
17 that my job uses, so it just makes it a lot
18 easier, direct deposit.

19 Q. Now, you have spoken at length about
20 The Innocence Project. Do you do appearances on
21 their behalf?

22 A. Yes. Yes, I do. I'm quite proud of
23 that actually. I actually go -- I'm able to go
24 around to different colleges and talk to aspiring

1 law students and college students and tell them
2 about this heinous experience, try to use a
3 negative and turn it into a positive, and
4 hopefully even inspire some lawyers to, you know,
5 become better lawyers, maybe even better human
6 beings. I try to use my story to motivate the
7 next generation.

8 Q. Do you get paid to do that?

9 A. Yes.

10 Q. Do you get paid by The Innocence
11 Project or do you get paid by the venue?

12 A. I believe -- I believe I'm paid by the
13 venue.

14 Q. What venues have paid you?

15 A. Well, I've been doing this -- this work
16 for almost three years now. And I've been
17 to -- I've been to Ohio State, Toledo, University
18 of Ohio. I've been outside the state to the
19 University of Illinois. I've been to Dayton
20 College. I've been to some of these colleges
21 twice.

22 Q. University of Cincinnati?

23 A. I've been to the University of
24 Cincinnati to speak.

1 Q. Have you been paid by all of those
2 schools to do that?

3 A. Yes.

4 Q. How much do you typically get paid?

5 A. Typically, for a one-hour or two-hour
6 speaking engagement, the school will give us a
7 stipend of like \$250, maybe \$350. It varies.

8 Q. Does Janette get paid for doing that
9 too?

10 A. She -- she -- she definitely has a
11 story to tell and this situation has
12 definitely, you know, provided her a way to vent,
13 and so, yes, she does get paid.

14 Q. And where do those payments get
15 deposited from you and from Janette?

16 A. Well, it's my wife's money, so I'm not
17 going to speak on where her money goes. I know
18 that my money goes into a bank, the Huntington
19 Bank account.

20 MR. EPSTEIN: Alyssa, if you'd give me
21 five minutes. I think we're just about done.

22 MS. MARTINEZ: Okay. Sounds good.

23 THE VIDEOGRAPHER: We are off the
24 record. The time is 6:35.

1 (A short recess is taken.)

2 THE VIDEOGRAPHER: We are back on the
3 record. The time is 6:43.

4 BY MR. EPSTEIN:

5 Q. Okay. Mr. Horton, home stretch. You
6 testified earlier that Myron Schwartz was your
7 attorney at your criminal trial, correct?

8 A. Yes.

9 Q. Did you ever see the paper file that
10 Myron Schwartz kept of your case?

11 MS. MARTINEZ: Objection to form.

12 You can answer.

13 A. Did I ever see the paperwork that
14 he -- that he kept?

15 Q. Yeah. If a lawyer --

16 A. I'm not sure I understand the question.

17 Q. If a lawyer has a case and there are
18 papers, the lawyer will keep them all together in
19 a file or a box or something. Did you ever see
20 his files?

21 MS. MARTINEZ: Same objection.

22 You can answer.

23 A. I -- I don't recall at this time
24 because I was one of the fortunate ones that I was

1 able to get ahold of my paperwork pretty quickly,
2 so I don't know if he -- if it came from him or
3 came from -- I'm not -- I'm not -- I can't recall
4 at this time.

5 Q. What are you referring to when you say
6 your paperwork?

7 A. The trial transcripts.

8 Q. I'm talking about before the trial.
9 Any --

10 A. Oh.

11 Q. Any evidence, any documents that he
12 had. Did he provide copies of those to you?

13 A. I don't recall at this time.

14 Q. Do you know where his files are today?

15 A. I do not know where they would be at
16 this time. As I understand it, Mr. Shwartz passed
17 away a long time ago.

18 Q. Did you read through the files in his
19 office during the preparation for the trial?

20 A. No, I did not. There wasn't a lot of
21 preparation.

22 Q. What do you mean there wasn't a lot of
23 preparation?

24 A. I don't remember us doing a lot of prep

1 work before the trial. I don't remember us
2 talking about who we, you know, who I wanted to
3 send subpoenas to. More than once we talked about
4 it, but I don't remember us talking about it more.
5 There wasn't a lot of prep work like how you see
6 in the movies.

7 Q. Was that frustrating for you?

8 A. At the time it was not, but looking
9 back on it, it was a little frustrating.

10 Q. How come?

11 A. Because I was thrown in prison for a
12 crime I didn't commit, so I -- it was frustrating.
13 A lot of different things were frustrating.

14 Q. What else was frustrating?

15 A. Just -- just trying to make sense of
16 it, just trying to figure out what happened, where
17 did I go wrong, if I went wrong, if I could have
18 done anything different, but it wasn't under my
19 control.

20 - - - - -

21 Thereupon, Exhibit 30 is marked for
22 purposes of identification.

23 - - - - -

24 Q. I'm going to hand you what's been

1 marked as Exhibit 30. It's an order from the
2 court captioned Entry Granting Defendant's 4/16/21
3 Motion for New Trial. Have you seen this document
4 before?

5 MS. MARTINEZ: Take time to look --

6 THE REPORTER: I'm sorry. What did you
7 say, Alyssa?

8 MS. MARTINEZ: Oh. I just said he can
9 take some time to look through it.

10 A. This -- can you repeat the question?

11 Q. I was simply asking if you've seen it
12 before.

13 A. This does not look familiar.

14 Q. Okay. If you look at the top of the
15 front page, there's a timestamp showing that it
16 was filed on January 12th, 2022. Do you see that?

17 A. I do see that.

18 Q. When were you released from prison?

19 A. I was released on January 19th, 2022.

20 Q. Do you know if this is the document
21 that caused you to be released from prison?

22 A. There was so many documents. I've
23 never seen this document before. I don't know if
24 this is the particular document that set me free.

1 Q. Okay. Well, turn to page 11. Page 11.
2 Do you see at the top it says this court hereby
3 grants Defendant's motion for a new trial?

4 A. I do see that.

5 Q. All right. Do you see any language
6 that says this court hereby releases the
7 Defendant?

8 A. No. The only thing I see is it is so
9 ordered and copies to all parties.

10 Q. Right. And you understand that if
11 there had been a new trial, the result could be
12 not guilty, the result could be guilty, right?
13 It's a new trial. That's your understanding?

14 A. I mean, there's -- there's any -- I
15 don't -- I don't -- I'm not sure how to answer
16 because, you know, with the -- with the -- I mean,
17 The Ohio Innocence Project got this motion
18 granted, so I just don't -- I -- anything could
19 have happened, I guess.

20 - - - - -

21 Thereupon, Exhibits 31 and 32 are
22 marked for purposes of identification.

23 - - - - -

24 Q. All right. I'm going to hand you what

1 I've marked as Exhibits 31 and 32.

2 MR. EPSTEIN: Did I fail to give you a
3 copy last time?

4 MS. MARTINEZ: No. I've got -- I've
5 got 30. Thank you.

6 MR. EPSTEIN: Okay. I'm sorry.

7 MS. MARTINEZ: It's okay. Thank you.
8 Which one is which? Okay. Thanks.

9 BY MR. EPSTEIN:

10 Q. So Exhibit 31 is another pleading.
11 It's captioned Motion for Nolle Prosequi. Do you
12 see that?

13 A. I do see that.

14 Q. This is an entry that was filed -- I'm
15 sorry. This is a motion that was filed on your
16 behalf by -- no. I'm sorry. Strike that.

17 Exhibit 32 is captioned Entry - Nolle
18 Prosequi. Do you see that?

19 A. Are you talking about Exhibit 32?

20 Q. Yes, sir.

21 A. Yes.

22 Q. All right. Have you seen Exhibit 31 or
23 Exhibit 32 before? Have you seen Exhibit 31
24 before?

1 A. Give me one more second. I do not
2 recall seeing Exhibit 31 before.

3 Q. Okay. As you're looking at it now, do
4 you have any understanding of what Exhibit 31 is?

5 A. I'm not a lawyer, so, no, I'm
6 not -- I'm not sure if I understand what this is.

7 Q. Okay. If you turn to the back, Bates
8 No. 4093.

9 A. 4093.

10 Q. Yes. You see the document is signed by
11 a number of prosecutors?

12 A. Yes.

13 Q. Okay. So would that lead you to
14 believe that this is a pleading that was filed by
15 the prosecutors?

16 A. It looks like it.

17 Q. Okay. Turn back one page, please, to
18 4092. And I want to read you the first sentence
19 in the last paragraph: We write this brief
20 synopsis to note that, upon a review of all of the
21 information known to the State at this time, it
22 remains the State's belief that this defendant
23 committed these crimes.

24 Were you aware at the time you were

1 released that the State still believed you were
2 guilty of the Loew Street robbery?

3 MS. MARTINEZ: Objection. Form.

4 You can answer.

5 A. No, I was not.

6 Q. They then write: Our burden, however,
7 requires that we prove this belief, with the
8 available admissible evidence as it stands today,
9 to a jury beyond a reasonable doubt. In light of
10 the court's recent ruling preventing the State
11 from introducing Mr. McClanahan's trial testimony,
12 we do not believe we can meet that burden.

13 Do you understand what's being said
14 there?

15 A. I think that I do.

16 Q. What is your understanding of that
17 paragraph?

18 A. My limited understanding is that the
19 State -- it's the State's belief that I still
20 committed these heinous crimes despite all the
21 work that The Ohio Innocence Project put into my
22 case, all the hours, all the blood, sweat, and
23 tears. And it says here that it's basically
24 saying that -- that the prosecution doesn't want

1 to retry the case.

2 Q. And does it say why they're not going
3 to retry the case?

4 A. It says the State -- it says that the
5 State -- it sounds like they're saying that the
6 State would have a hard time without
7 Mr. McClanahan's testimony.

8 Q. And they don't have Mr. McClanahan's
9 testimony because he's since passed away; is that
10 correct?

11 MS. MARTINEZ: Objection to form.

12 You can answer.

13 Q. By the time this is all happening,
14 Mr. McClanahan is dead, right?

15 A. Yes, Mr. McClanahan had passed away at
16 this time, 2023.

17 Q. All right. And then have you seen
18 Exhibit 32 before?

19 A. No. This does not look familiar.

20 Q. From the caption of that, that's the
21 entry granting the motion that we just looked at,
22 correct?

23 A. I --

24 Q. If you can't tell, that's fine.

1 A. Yeah, I can't tell.

2 Q. Okay. Mr. Horton, do you have a belief
3 as to who committed the Loew Street robbery?

4 A. No, I do not.

5 Q. Have you heard any --

6 A. Not at this time, I do not.

7 Q. I don't understand the preface "at this
8 time." Does that mean at a different time you did
9 have a theory?

10 A. I just -- at this -- at this time and
11 day, I -- I don't have a theory on what happened.

12 Q. Have --

13 A. I just know that I didn't commit the
14 crime.

15 Q. Have --

16 A. I just know that The Ohio Innocence
17 Project is the one who freed me from bondage. I
18 just know, you know, there's so many things in
19 favor of -- so many things had to go right for me
20 to get out of prison for a crime I didn't commit.
21 I just --

22 Q. Have you ever heard any rumors as to
23 who might have committed the Loew Street robbery?

24 A. I'm -- I'm not sure what I've heard

1 over the years, you know...

2 Q. Have you heard anything?

3 A. I'm not sure what I've heard at this
4 point. It's been such a long, long day. You've
5 asked me so many questions. I've cooperated to
6 the best of my knowledge. It's -- I couldn't -- I
7 couldn't tell you what I've heard at this point.

8 MR. EPSTEIN: All right. Thank you.
9 We're done.

10 MS. MARTINEZ: We'll reserve signature.

11 THE VIDEOGRAPHER: This concludes the
12 deposition of Richard Horton. We are off the
13 record at 6:57.

14 (Signature not waived.)

15 - - - - -

16 Thereupon, the foregoing proceedings
17 concluded at 6:57 p.m.

18 - - - - -

19

20

21

22

23

24

1 State of Ohio : C E R T I F I C A T E
2 County of Franklin: SS

3 I, Carolyn M. Burke, RPR, a Notary Public in
4 and for the State of Ohio, certify that Richard H.
5 Horton was by me duly sworn to testify to the
6 whole truth in the cause aforesaid; testimony then
7 given was reduced to stenotype in the presence of
8 said witness, afterwards transcribed by me; the
9 foregoing is a true record of the testimony so
10 given; and this deposition was taken at the time
11 and place specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of
13 Civil Procedure, the witness and/or the parties
14 have not waived review of the deposition
15 transcript.

16 I certify I am not a relative, employee,
17 attorney or counsel of any of the parties hereto,
18 and further I am not a relative or employee of any
19 attorney or counsel employed by the parties
20 hereto, or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office at Columbus,
23 Ohio, on January 6, 2025.

24 *Carolyn M. Burke*

Carolyn M. Burke, RPR, Notary Public - State of
Ohio. My commission expires July 17, 2028.

Witness Errata and Signature Sheet
 Correction or Change Reason Code
 1-Misspelling 2-Word Omitted 3-Wrong Word
 4-Clarification 5-Other (Please explain)

Page/Line	Correction or Change	Reason Code
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I, Richard H. Horton, have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date_____Signature_____

Ref: CB313034RH

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